U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

June 25, 2015

MR. JOHN GREENEWALD JR.
THE BLACK VAULT
[redacted]

FOIPA Request No.: 1291314-000
Subject: KLEINDIENST, RICHARD GORDON

Dear Mr. Greenewald:

The enclosed documents were reviewed under the Freedom of Information Act (FOIA), Title 5, United States Code, Section 552/552a. Deletions have been made to protect information which is exempt from disclosure, with the appropriate exemptions noted on the page next to the excision. In addition, a deleted page information sheet was inserted in the file to indicate where pages were withheld entirely. The exemptions used to withhold information are marked below and explained on the enclosed Explanation of Exemptions:

Section 552		Section 552a
☐ (b)(1)	☐ (b)(7)(A)	☐ (d)(5)
☐ (b)(2)	☐ (b)(7)(B)	☐ (j)(2)
☐ (b)(3)	☑ (b)(7)(C)	☐ (k)(1)
_____	☑ (b)(7)(D)	☐ (k)(2)
_____	☑ (b)(7)(E)	☐ (k)(3)
_____	☐ (b)(7)(F)	☐ (k)(4)
☐ (b)(4)	☐ (b)(8)	☐ (k)(5)
☐ (b)(5)	☐ (b)(9)	☐ (k)(6)
☑ (b)(6)		☐ (k)(7)

330 preprocessed pages are enclosed. To expedite requests, preprocessed packages are released the same way they were originally processed. Documents or information originating with other Government agencies that were originally referred to that agency were not referred as part of this release. This material is being provided to you at no charge.

☐ In accordance with standard FBI practice and pursuant to FOIA exemption (b)(7)(E) and Privacy Act exemption (j)(2) [5 U.S.C. § 552/552a (b)(7)(E)/(j)(2)], this response neither confirms nor denies the existence of your subject's name on any watch lists.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S. C. § 552(c) (2006 & Supp. IV (2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist. Enclosed for your information is a copy of the Explanation of Exemptions.

For questions regarding our determinations, visit the www.fbi.gov/foia website under "Contact Us." The FOIPA Request Number listed above has been assigned to your request. Please use this number in all correspondence concerning your request. Your patience is appreciated.

You have the right to appeal any denials in this release. Appeals should be directed in writing to the Director, Office of Information Policy (OIP), U.S. Department of Justice,1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001, or you may submit an appeal through OIP's eFOIA portal at http://www.justice.gov/oip/efoia-portal.html. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number assigned to your request so that it may be easily identified.

Sincerely,

David M. Hardy
Section Chief
Record/Information
Dissemination Section
Records Management Division

Enclosure(s)

EXPLANATION OF EXEMPTIONS

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

(b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;

(b)(2) related solely to the internal personnel rules and practices of an agency;

(b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;

(b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

(d)(5) information compiled in reasonable anticipation of a civil action proceeding;

(j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;

(k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;

(k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;

(k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;

(k)(4) required by statute to be maintained and used solely as statistical records;

(k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;

(k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service he release of which would compromise the testing or examination process;

(k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1273373-0

Total Deleted Page(s) = 78
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FD-36 (Rev. 5-22-64)

FBI

Date: 10/17/72

Transmit the following in _____ (Type in plaintext or code)

Via Airtel (Priority)

TO ACTING DIRECTOR, FBI
ATTN: OFFICE OF LEGAL COUNSEL

FROM: SAC, PHILADELPHIA (62-5421) (P)

SUBJECT: SISTER ELIZABETH MC ALISTER,
ET AL VS. RICHARD G. KLIENDIENST,
ET AL;
MISCELLANEOUS - INFORMATION CONCERNING
CIVIL ACTION NO. 72-3443
(EDPA)
(OO: PHILADELPHIA)

Enclosed for the information of the Office of Legal Counsel is one xerox copy of the complaint in this matter.

Instant case is being handled by AUSA [redacted] for the U.S. Attorney's Office in Philadelphia. SA [redacted] met with AUSA [redacted] and AUSA [redacted] on 10/13/72 to discuss this case and companion case brought by KEITH FORSYTH, and to obtain copies of the respective complaints.

Both AUSAs advised that they foresee little immediate action in either matter pending instructions from the Department. Both stated that they intend to study the complaints in light of recent case law regarding electronic surveillance.

EX-117 REC-79 115389-1

ENCLOSURE ATTACHED

ENCLOSURE 62-

2-Bureau (Enc. 1)
2-Philadelphia (62-5421)

RCB/mq
(4)

MCT-20 OCT 19 1972 (115389)

Approved: _____ Sent _____ M Per _____

Special Agent in Charge

U.S.Government Printing Office: 1972 — 455-574

PH 62-5421

LEADS

PHILADELPHIA:

AT PHILADELPHIA, PA.:

Will maintain close contact with AUSAs, Philadelphia, and the Office of Legal Counsel as further developments in these cases arise.

ENCLOSURE TO BUREAU FROM PHILADELPHIA

Re: SISTER ELIZABETH MC ALISTER, ETAL, V. RICHARD KLIENDIENST, ETAL; MISC. - INFORMATION CONCERNING, CIVIL ACTION # 72-344; EDPA, OO: PH

Contents: One xerox copy of the complaint in this matter.

Bufile #

PHfile # 62-5421

PH AT TO BUREAU dated 10/17/72

62 - 115389

ENCLOSURE

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, Plaintiff	
v.	Indictment No. 14886
EQBAL AHMAD, et al., Defendants	

JOHN N. MITCHELL, being duly sworn, deposes and says:

1. I am the Attorney General of the United States.

2. I submit this affidavit in connection with the opposition of the United States of America to the disclosure to the defendant McAlister of information concerning what the Government believes are probably telephonic overhearings of her voice which occurred during the course of a national security surveillance of a telephone installation to which she initiated calls or from which calls were initiated to her. In addition to other pertinent information, the sealed exhibit submitted herewith for in camera inspection contains a description of the premises which were the subject of the telephonic surveillance, and transcripts of the conversations overheard.

3. The surveillance of the telephone installation at the premises described was one authorized by the President, acting through the Attorney General, and was one deemed necessa to protect against a clear and present danger to the structure or existence of the Government of the United States. The decision to authorize such surveillance was based upon the information contained in a request of the Director of the Federal Bureau of Investigation which was considered in

conjunction with the entire range of foreign and domestic intelligence available to the Executive Branch of the Government.

4. I certify that it would be a practicable impossibility to submit to the court all of the facts, circumstances, and other considerations upon which the authorization was based. I further certify that it would prejudice the national interest to disclose the particular facts contained in the sealed exhibit and concerning this surveillance other than to the court, in camera.

5. I respectfully request the court to treat the contents of the sealed exhibit with the same dignity for security purposes as they were treated in submission to the court and to return said exhibit to the Department of Justice at the conclusion of its hearing on this matter. The Department of Justice will retain said exhibit under the court's seal subject to any further orders of this court or other court of competent jurisdiction.

JOHN N. MITCHELL
Attorney General of the United Stat

Subscribed and sworn to before me
on the 13th day of May, 1971.

Notary Public

and 18 U.S.C. §2520. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1331, 1332, and 1343(4), 18 U.S.C. §2520, and 47 U.S.C. §605 and the aforementioned constitutional provisions. The matter in controversy, exclusive of interests and costs, exceeds the sum of $10,000.00.

PARTIES

3. Plaintiff SISTER ELIZABETH McALISTER is a citizen of the United States and a resident of the State of New York. She resides at 137 W. 85th St., New York, N.Y.

4. Plaintiff WILLIAM DAVIDON is a citizen of the United States and a resident of the Eastern District of Pennsylvania. He resides at 7 College Lane, Haverford, Pa., and is Chairman of the Department of Physics at Haverford College.

5. Defendant JOHN N. MITCHELL is former Attorney General of the United States. His present address is unknown to Plaintiffs. At the time of the events giving rise to this Complaint he was Attorney General of the United States.

6. Defendant RICHARD KLIENDIENST is Attorney General of the United States.

7. Defendant L. PATRICK GRAY, III is Acting Director of the Federal Bureau of Investigation. He is the successor to J. Edgar Hoover, the Director of the Federal Bureau of Investigation at the time of the events giving rise to this Complaint.

8. Defendants MASON SMITH, CHARLES DURHAM and JOSEPH JAMIESON were agents of the Federal Bureau of Investigation in Philadelphia at the time of the events giving rise to this complaint. Upon information and belief, they are presently

employed by the Federal Bureau of Investigation in like or similar capacities at locations now unknown to Plaintiffs.

9. Defendants JOHN DOE and RICHARD ROE, whose true names are as yet unknown to Plaintiffs are persons who have directed, authorized, participated in, disclosed and/or used electronic surveillance on behalf of other Defendants or the government agencies headed by them, or on behalf of other persons or agencies as yet unknown to Plaintiffs.

CAUSES OF ACTION

10. Upon information and belief, between the dates November 24, 1970, and January 6, 1971, the telephone conversations of Plaintiff DAVIDON were monitored, recorded, disclosed and used by agents of the United States Government. The use and disclosure continued after that date and continues to the present time.

11. This surveillance was continual and uninterrupted, with the possible exception of the period December 24, 1970 - January 2, 1971 inclusive.

12. This surveillance was initiated and maintained without warrant or other lawful authority, and was done at the direction of and with the approval of Defendant MITCHELL. It was carried out by agents whose identities are unknown to Plaintiffs.

13. During the course of this surveillance, conversations to which Plaintiff McALISTER was a party were monitored.

14. Plaintiff McALISTER was one of seven defendants in United States v. Ahmad et al., Crim. No. 14950, M.D. Pa., 1971.

During the course of pre-trial proceedings in this case, the fact of the surveillance was made known to her and her attorneys. See Exhibit A, attached hereto. During the course of post-trial proceedings, the contents of her own monitored conversations were made known to her.

15. Plaintiff DAVIDON has to this date not been formally advised by the government that his conversations were monitored. He alleges upon information and belief that he was the target of the surveillance on the following grounds:

(a) The target of the surveillance in question has been acknowledged by the government, through the testimony of Defendant SMITH, to have been an unindicted alleged co-conspirator. This acknowledgement was made during the course of post-trial proceedings in the above mentioned criminal case. (Testimony of MASON SMITH at Hearing on Electronic Surveillance, May 2, 1972, at p. 14, United States v. Ahmad et al., Crim. No. 14950, M.D. Pa. 1971.)

(b) Defendants SMITH, DURHAM and JAMIESON, the individuals responsible for and with access to the logs of the surveillance in question, were employed in the City of Philadelphia, and the said logs were housed in their office in that City.

(c) Plaintiff DAVIDON is the only unindicted alleged co-conspirator in the above criminal case who lived in or near Philadelphia at the time of the surveillance in question.

(d) Newspaper reports at the time the disclosure of surveillance as to Plaintiff McALISTER was made by the government stated that Plaintiff DAVIDON was the subject of the wiretap which monitored her conversations. The source of

[redacted] 1972 20 AM

...ONS IN A CIVIL ACTION

CIV. 1 (2-64)
(Formerly D. C. Form No. 45 Rev. (6-49))

United States District Court

FOR THE

EASTERN DISTRICT OF PENNSYLVANIA

[redacted] b6 b7C

New

CIVIL ACTION FILE NO. 72-1977

72-3443

SISTER ELIZABETH McALISTER
WILLIAM DAVIDON

Plaintiff

SUMMONS

RICHARD G. KLIENDIENST, Individually and as Attorney General of the United States

[redacted] PATRICK GRAY, III, Individually and as Acting Director, Federal Bureau of Investigation b6 b7C

JOHN N. MITCHELL, Individually and as former Attorney General of the United States

MASON SMITH, Individually and as Special Agent, Federal Bureau of Investigation

CHARLES DURHAM, Individually and as Special Agent, Federal Bureau of Investigation

JOSEPH JAMIESON, Individually and as Special Agent, Federal Bureau of Investigation

...ack J. Levine, Esq.
...Street
...9102

an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

George M. Gehringer
Deputy U.S. Marshal

JOHN J. HARDING
Clerk of Court.

J. H. Jenckes
Deputy Clerk.

Date: 10/10/72

[Seal of Court]

U.S. ATTY-PHILA

OCT 11 1972

Note:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SISTER ELIZABETH McALISTER WILLIAM DAVIDON	:	Civil Action No. 72-19
Plaintiffs	:	Jury Trial Demanded
v.	:	
RICHARD G. KLIENDIENST, Individually and as Attorney General of the United States	:	
L. PATRICK GRAY, III, Individually and as Acting Director, Federal Bureau of Investigation	:	
JOHN N. MITCHELL, Individually and as former Attorney General of the United States	:	
MASON SMITH, Individually and as Special Agent, Federal Bureau of Investigation	:	
CHARLES DURHAM, Individually and as Special Agent, Federal Bureau of Investigation	:	
JOSEPH JAMIESON, Individually and as Special Agent, Federal Bureau of Investigation	:	
JOHN DOE and RICHARD ROE	:	
Defendants	:	

COMPLAINT

1. This action is brought by plaintiffs for compensatory and punitive damages occasioned by defendants' unauthorized and illegal electronic surveillance, overhearing, interception, use and disclosure of plaintiffs' oral and wire communications in violation of plaintiffs' rights to privacy, free speech, association, and political expression.

JURISDICTION

2. This action arises under the First, Fourth, and Ninth Amendments to the Constitution of the United States

the information which led to these press accounts is unknown to Plaintiffs or their attorneys.

(e) Defendant SMITH testified during the course of the above mentioned post-trial proceedings in Harrisburg that the wiretap was "out of operation from December 24, 1970 to January 2, 1971...because the subject or target, whatever you call it, was not at the premises." During this period Plaintiff DAVIDON was visiting relatives in the Western and Midwestern part of the United States. Hearing Transcript, supra, at p. 31.

16. All of this surveillance was in violation of the First and Fourth and Ninth Amendments, 18 U.S.C. §2520 and 47 U.S.C. §605.

17. Said interceptions, overhearing, use and disclosure were not made in good faith reliance on a court order or legislative authorization.

WHEREFORE, Plaintiffs pray:

1. That each Plaintiff have judgment against the Defendants jointly in the sum of

(a) $100.00 per day of surveillance upon him and her, or $1,000.00, whichever is higher (See 18 U.S.C. §2520(a)).

(b) $50,000.00 punitive damages.

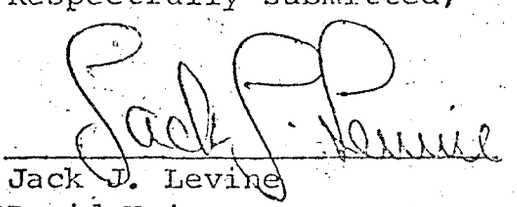
2. That Plaintiffs individually have judgment against the Defendants jointly in the sum of $50,000.00 for violation of their First, Fourth and Ninth Amendment rights.

3. That Plaintiffs jointly have judgment against Defendants jointly for reasonable attorney's fees and other

costs reasonably incurred in connection with this action, pursuant to 18 U.S.C. §2520(c).

4. And for such other and further relief as may be just and proper.

Respectfully submitted,



Jack J. Levine
David Kairys
David Rudovsky
1427 Walnut Street
Philadelphia, Pa. 19102
215-563-1388
215-563-8312

William Bender
103 Washington Street
Newark, N.J. 07102
201-648-5427

Airtel

ST-102

11/2/72

REC 44 62-115389-2

To: SAC, Philadelphia (62-5421)
From: Acting Director, FBI

1 - Mr. Miller
1 - Mr. Dalbey
1 - Mr. Mintz

SISTER ELIZABETH McALISTER, et al. v.
RICHARD G. KLEINDIENST, et al.;
MISCELLANEOUS - INFORMATION CONCERNING
CIVIL ACTION NO. 72-1977
(E.D. Pa.)

NR

Reurairtel to the Bureau 10/17/72.

The Internal Security Division of the Department has requested a litigation report in this civil suit.

Philadelphia review the complaint and submit an LHM containing the facts and responding to each numbered paragraph in the complaint. Advise which allegations may be admitted and which may be denied. Further, suggest any proposed interrogatories and/or requests for admissions to be served on plaintiffs.

Submit your reply to attention Legal Counsel by November 14, 1972.

NOTE: Based on incoming letter from the Department dated 10/25/72.

JAM:deh
(6)

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Gebhardt
Jenkins
Marshall
Miller, E.S.
Purvis
Soyars
Walters
Tele. Room
Mr. Kinley
Mr. Armstrong
Ms. Herwig
Mrs. Neenan

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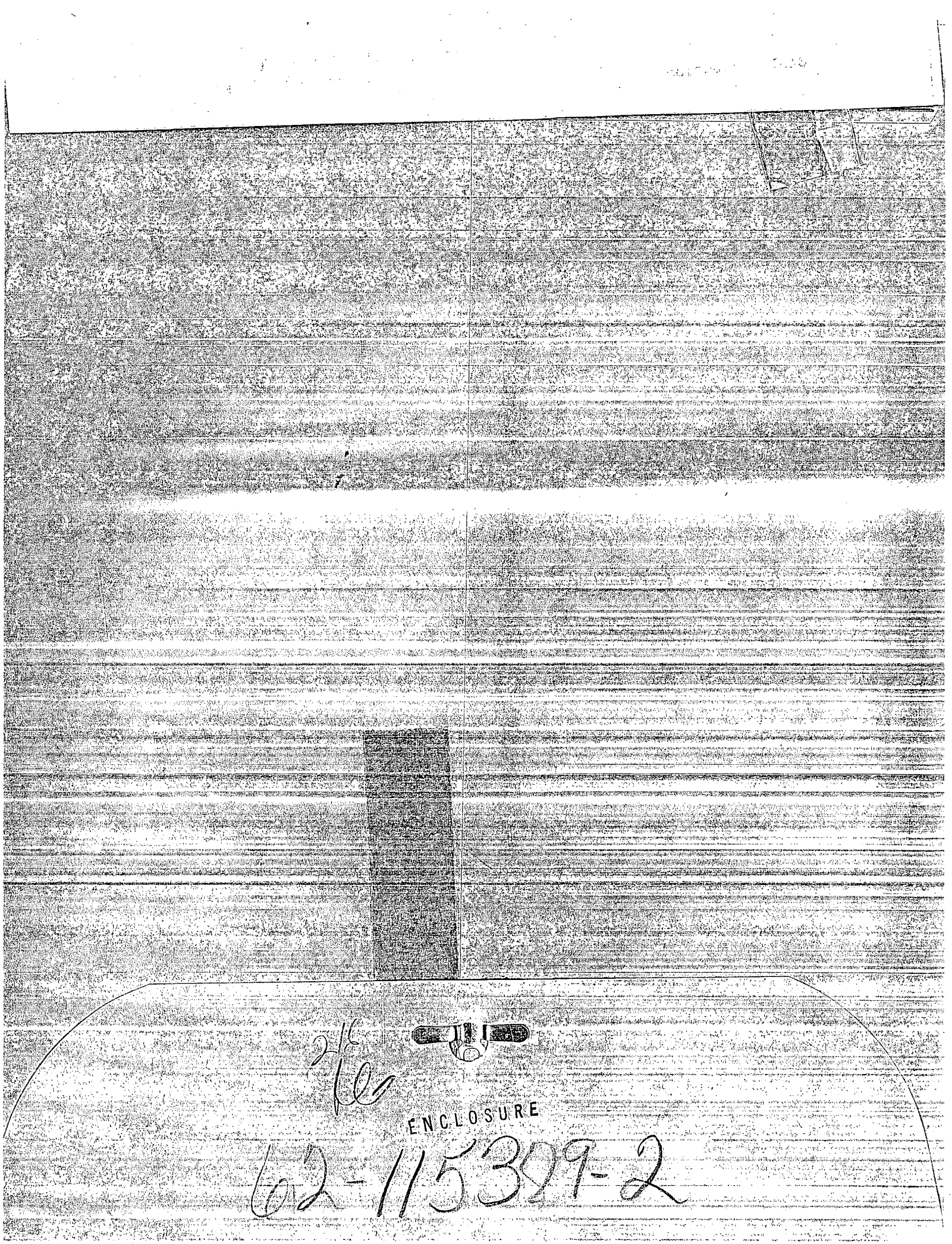
DJD

62 cleared per J.A. Mintz 11-16-72 mw

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ASSOCIATE DIRECTOR

FBI
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LEGAL COUNSEL



ENCLOSURE

62-115309-2

Airtel

To: SAC, Philadelphia (62-5421) 11/17/72

From: Acting Director, FBI

1 - Mr. Dalbey
1 - Mr. Mintz

SISTER ELIZABETH McALISTER, et al. v.
RICHARD G. KLEINDIENST, et al.,
CIVIL ACTION NO. 72-1977, E.D. PA.
MISCELLANEOUS - INFORMATION CONCERNING
CIVIL SUIT

Re Philadelphia airtel to Bureau dated 11/10/72.

Re airtel enclosed copies of an LHM dated 11/10/72, at Philadelphia, Pennsylvania, and advised that the Philadelphia Office retained one copy of the memorandum for dissemination to the United States Attorney's Office at Philadelphia. For your information and guidance in dissemination of that LHM it was submitted to the Internal Security Division of the Department as received except the spelling of the name of the Attorney General was corrected throughout the memorandum.

NOTE: Based on incoming airtel from Philadelphia dated 11/10/72, and letter to the Department dated 11/16/72, JAM:deh.

JAM:deh
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Assistant Attorney General
Internal Security Division

EX-117

November 17, 1972

Acting Director, FBI

1 - Mr. Miller
1 - Mr. Dalbey
1 - Mr. Mintz

SISTER ELIZABETH McALISTER, et al. v.
RICHARD G. KLEINDIENST, et al.
(E.D. PA.) CIVIL ACTION NO. 72-1977

Your letter of October 25, 1972, requested a litigation report and any proposed interrogatories and/or requests for admissions to be served on the plaintiffs.

Draft interrogatories will be submitted as soon as they are available. Enclosed are two copies of a memorandum dated November 10, 1972, at Philadelphia, Pennsylvania, which contains responses to the allegations in the complaint filed in captioned civil suit.

Your attention is directed to the material submitted in response to paragraph 10 and paragraph 11 of the complaint. This material is being furnished the Internal Security Division for purposes of completeness and clarity. We would prefer to avoid having to admit that the electronic surveillance was directed at William Cooper Davidon and suggest that careful consideration be given to development of a means by which disclosure of this information may be avoided.

For information, my letter to the Assistant Attorney General, Civil Division, dated October 26, 1972, enclosed copies of the summons and complaint in this case received at the Washington Field Office of the FBI on October 19, 1972. Three copies of each were received designated for Mason Smith, Charles Durham, and Joseph Jamieson respectively. There was no copy indicated for L. Patrick Gray, III. It is noted that Smith and Durham are assigned to the Philadelphia Office of the FBI and Jamieson is currently assigned at Los Angeles, California. Personal service on them would not be appropriate through the Washington Field Office. My letter to the Civil Division requested that appropriate representation be provided in defense of this suit.

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Enclosures (2)

JAM:deh

1 - Assistant Attorney General
Civil Division

SEE NOTE PAGE 2

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Mr. Kinley
Mr. Armstrong
Ms. Hen
Mrs. Neenan

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Assistant Attorney General
Internal Security Division

NOTE: Based on incoming letter from the Department dated 10/25/72, and Philadelphia's airtel dated 11/10/72.

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FD-36 (Rev. 5-22-64)

FBI

Date: 11/10/72

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL _____ (Priority)

TO: ACTING DIRECTOR, FBI
(ATTENTION: OFFICE OF LEGAL COUNSEL)

FROM: SAC, PHILADELPHIA (62-5421) (P)

SUBJECT: SISTER ELIZABETH MC ALISTER, ET AL vs.
RICHARD G. KLEINDIENST, ET AL,
CIVIL ACTION #72-1977, EDPa.
MISCELLANEOUS - INFORMATION CONCERNING
CIVIL SUIT
(OO: PHILADELPHIA)

62-115389-2

Re Bureau letter to Philadelphia dated 11/2/72.

Enclosed for possible future dissemination by the Bureau to the Department of Justice are five copies of a letterhead memorandum answering the allegations made in the complaint filed in the above captioned matter.

For the information of the Bureau, the device mentioned in the draft response to plaintiffs' complaint paragraph 10, was installed on 11/24/70 by SA JAMES ROBERT PEARCE of the Philadelphia Office.

As regards the text of overheard conversations to which plaintiff MC ALISTER may have been a party, these texts have already been made known to her, see records of post-trial proceedings in United States vs. AHMAD, ETAL; Crim. No. 14950 MDPa. 1971.

The texts of the conversations in which plaintiff DAVIDON may have been a party were furnished to the Bureau by communications dated 3/31/71 under the EASTCON caption (Bureau file 100-460495, Philadelphia 100-51190).

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The inclusion of information re the identity of the subject of the telsur in the draft answer to the plaintiff's complaint is set forth in an effort to provide the most complete and detailed information possible and discretion is left to the

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2- Philadelphia (62-5421)
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Approved: _____ Sent _____ M Per _____
Special Agent in Charge

*U.S.Government Printing Office: 1972 — 455-574

Bureau to delete such information prior to dissemination.

The Philadelphia Office is retaining one copy of this memo and will disseminate it to the U.S. Attorney's Office, Philadelphia, Pa., UACB.

LEAD

PHILADELPHIA:

AT PHILADELPHIA, PA.

Will submit draft interrogatories to Bureau as soon as they become available.

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

Philadelphia, Pennsylvania

In Reply, Please Refer to File No.

November 10, 1972

SISTER ELIZABETH McALISTER, et al.
(PLAINTIFFS)
v.
RICHARD G. KLEINDIENST,
INDIVIDUALLY AND AS ATTORNEY
GENERAL OF THE UNITED STATES, et al.
(DEFENDANTS)

On October 10, 1972, a complaint was filed in the United States District Court for the Eastern District of Pennsylvania and is entitled, "Sister ELIZABETH McALISTER, WILLIAM DAVIDON (PLAINTIFFS) versus RICHARD G. KLEINDIENST, individually and as Attorney General of the United States; L. PATRICK GRAY, III, individually and as Acting Director, Federal Bureau of Investigation; JOHN N. MITCHELL, individually and as former Attorney General of the United States; MASON SMITH, individually and as Special Agent, Federal Bureau of Investigation; CHARLES DURHAM, individually and as Special Agent, Federal Bureau of Investigation; JOSEPH JAMIESON, individually and as Special Agent, Federal Bureau of Investigation," Civil Action Number 72-1977. Complaint consists of seventeen (17) numbered paragraphs and a prayer for relief consisting of four (4) numbered paragraphs. Paragraphs three (3) through nine (9) identify the parties to this action, and paragraphs ten (10) through seventeen (17) are allegations against the Federal Bureau of Investigation and the other named defendants which the plaintiffs claim violated their constitutional rights as guaranteed by the First, Fourth and Ninth Amendments to the Constitution of the United States and their statutory rights under 18, United States Code, Section 2520.

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency: it and its contents are not to be distributed outside your agency, nor duplicated within your agency.

62-115387-4

ENCLOSURE

Sister Elizabeth McAlister, et al.
(Plaintiffs)
v.
Richard G. Kleindienst, Individually and as Attorney General of the United States, et al. (Defendants)

PARAGRAPH 3 alleges that plaintiff, Sister ELIZABETH McALISTER, is a citizen of the United States and a resident of the State of New York who resides at 137 West 85th Street, New York, New York.

ANSWER: A review of the files of the Philadelphia Office reflects that plaintiff McALISTER is a white female, born [redacted], in Orange, New Jersey. The plaintiff's activities in connection with the events that led to her indictment in the recent "East Coast Conspiracy to Save Lives" kidnapping - bombing case are well known. The FBI neither admits nor denies plaintiff McALISTER's claim to be a resident of the State of New York, or the fact of her current residence at 137 West 85th Street, New York, New York. b6 b7C

PARAGRAPH 4 alleges that plaintiff DAVIDON is a citizen of the United States and a resident of the Eastern District of Pennsylvania, who resides at 7 College Lane, Haverford, Pennsylvania, and is Chairman of the Department of Physics at Haverford College.

ANSWER: These averments are substantially correct, however, the FBI can neither affirm or deny the fact of the plaintiff's position as Chairman of the Department of Physics at Haverford College.

PARAGRAPH 9 alleges that defendants JOHN DOE and RICHARD ROE, true names unknown to plaintiffs, are persons who have directed, authorized, participated in, disclosed and/or used electronic surveillance on behalf of other defendants or the Government agencies headed by them, or on behalf of other persons or agencies as yet unknown to the plaintiffs.

ANSWER: The FBI can neither affirm or deny the allegations made in paragraph 9 on the basis of the information provided by the plaintiffs.

Sister Elizabeth McAlister, et al.
(Plaintiffs)
v.
Richard G. Kleindienst, Individually and as Attorney General of the United States, et al. (Defendants)

PARAGRAPH 10 alleges upon information and belief that between the dates November 24, 1970, and January 6, 1971, the telephone conversations of plaintiff DAVIDON were monitored, recorded, disclosed and used by agents of the United States Government, and that the use and disclosure continued after that date and continues to the present time.

ANSWER: The FBI believes that plaintiff DAVIDON is not legally in a position to have the information that forms the basis for the above paragraph, and that plaintiff McALISTER, her co-defendants in United States v. Ahmad, et al., and/or their counsel may have by this complaint violated both the letter and the spirit of a Protective Order issued on May 1, 1972, in Harrisburg, Pennsylvania, by United States District Judge R. DIXON HERMAN (see copy of this order attached to the end of this memorandum).

It is noted that the Philadelphia Office of the FBI formally requested the permission of the Attorney General of the United States to monitor the conversations on a private telephone located in the residence of WILLIAM COOPER DAVIDON, 7 College Lane, Haverford, Pennsylvania. This request was made via letter to the Director of the FBI dated October 30, 1970. The Attorney General approved this application on November 6, 1970, and the Philadelphia Office received the authorization on November 10, 1970. The terms of the authorization stipulated that the installation was not to be activated for a period exceeding thirty days subject to requests for extension. The installation was activated on November 24, 1970. On December 1, 1970, the Philadelphia Office requested authorization to extend the installation for another thirty days. On December 8, 1970, the Attorney General approved this extension. The installation was deactivated on January 6, 1971.

Sister Elizabeth McAlister, et al.
(Plaintiffs)
v.
Richard G. Kleindienst, Individually and as Attorney General of the United States, et al. (Defendants)

The conversations monitored while the installation was in operation were, as a matter of course, recorded. The information obtained in the operation of this installation was not used in any judicial or other formal proceeding, either in support of or against either of the plaintiffs to this action. The text of any conversations monitored, or the fact that conversations were monitored was not disclosed outside the United States Department of Justice until on or about May 2, 1972, during the course of a post-trial hearing following the trial in United States v. Ahmad, et al. This hearing was held per the order of Judge HERMAN as set out in his Memorandum Order of November 12, 1971.

PARAGRAPH 11 alleges that this surveillance was continual and uninterrupted with the possible exception of the period December 24, 1970 - January 2, 1971, inclusive.

ANSWER: A review of the files of the Philadelphia Office has revealed that the foregoing paragraph is substantially correct.

PARAGRAPH 12 alleges that this surveillance was initiated and maintained without warrant or other lawful authority, and was done at the direction of and with the approval of Defendant MITCHELL, and that it was carried out by agents whose identities are unknown to plaintiffs.

ANSWER: A review of the files of the Philadelphia Office reveals that the installation in question was installed without the prior issuance of a warrant. It is totally false that this installation was initiated and maintained without lawful authority. This installation was applied for, approved and operated in strict conformance to Department Directives governing national security wire interceptions under the authority of the President of the United States.

Attorney General MITCHELL did approve the original installation and its thirty-day extension.

Sister Elizabeth McAlister, et al.
(Plaintiffs)
v.
Richard G. Kleindienst, Individually and as Attorney General of the United States, et al. (Defendants)

PARAGRAPH 13 alleges that during the course of this surveillance, conversations to which plaintiff McALISTER was a party were monitored.

ANSWER: A review of the files of the Philadelphia Office has revealed that this allegation is correct.

PARAGRAPH 14 alleges that plaintiff McALISTER was one of seven defendants in United States v. Ahmad, et al., and that during the course of pre-trial proceedings in that case, the fact of the surveillance was made known to her, and that during the course of post-trial proceedings the content of her own monitored conversations were made known to her.

ANSWER:

1. Plaintiff McALISTER was a defendant in United States v. Ahmad, et al.

2. By affidavit filed in the United States District Court, Middle District of Pennsylvania, on May 13, 1971, by Attorney General MITCHELL, plaintiff McALISTER was advised that probable telephonic overhearings of her voice occurred.

3. The verbatim transcripts of the contents of these calls were furnished to plaintiff McALISTER by the Government during the course of post-trial proceedings in United States v. Ahmad, et al.

Sister Elizabeth McAlister, et al.
(Plaintiffs)
v.
Richard G. Kleindienst, Individually and as Attorney General of the United States, et al. (Defendants)

PARAGRAPH 15 alleges that although he has not been formally advised by the Government, plaintiff DAVIDON alleges upon information and belief that he was the target of the surveillance on the following grounds:

(a) The target of the surveillance in question has been acknowledged by the Government, through the testimony of defendant SMITH, to have been an unindicted alleged co-conspirator.

(b) Defendants SMITH, DURHAM and JAMIESON, the individuals responsible for and with access to the logs of the surveillance in question, were employed in the City of Philadelphia, and the said logs were housed in their office in that city.

(c) Plaintiff DAVIDON is the only unindicted alleged co-conspirator in the above criminal case who lived in or near Philadelphia at the time of the surveillance in question.

(d) Newspaper reports at the time the disclosure of surveillance as to plaintiff McALISTER was made by the Government stated that plaintiff DAVIDON was the subject of the wiretaps which monitored her conversations and that the source of the information which led to these press accounts is unknown to the plaintiffs or their attorneys.

(e) Defendant SMITH testified during the course of the above mentioned post-trial proceedings in Harrisburg that the wiretaps were "out of operation from December 24, 1970, to January 2, 1971 . . . because the subject or target . . . was not at the premises." During the period plaintiff DAVIDON was visiting relatives in the western and midwestern part of the United States.

Sister Elizabeth McAlister, et al.
(Plaintiffs)

v.

Richard G. Kleindienst, Individually and as Attorney General of the United States, et al. (Defendants)

ANSWER:

(a) The allegations in this part of paragraph 15 are true, however, the fact that this allegation is made indicates that both the letter and spirit of Judge HERMAN's Protective Order have been violated by the defendants in United States v. Ahmad, et al., their attorneys.

(b) (1) Defendant SMITH was associated with the operation of the installation which is the subject matter of this case. He was not, however, responsible for it, and he had no greater right of access to the logs of this surveillance than did any other agent assigned to the Philadelphia Office who may have had occasion to examine these logs in the course of his investigative responsibilities.

(2) Defendant DURHAM was not one of the individuals responsible for the logs of the surveillance in question. He had no greater right of access to these logs than any other agent assigned to the Philadelphia Office who may have had occasion to examine these logs in the course of his investigative responsibilities.

(3) Defendant JAMIESON as the Special Agent in Charge of the Philadelphia Office at the time of the surveillance in question was ultimately responsible for any and all the operations being carried out by the Philadelphia Office at that time. He did not have any greater right of access to the logs of the surveillance in question than did any other agent assigned to the Philadelphia Office who may have had occasion to examine these logs in the course of his investigative responsibilities.

(4) Defendants SMITH, DURHAM and JAMIESON were employed in the City of Philadelphia during the period in question.

Sister Elizabeth McAlister, et al.
(Plaintiffs)
v.
Richard G. Kleindienst, Individually and as Attorney General of the United States, et al. (Defendants)

(5) The surveillance logs in question were maintained in the Philadelphia Office during the period in question.

(c) The FBI is unable, after a review of the pertinent records, to affirm or deny the allegation made in paragraph 15 (c). "Plaintiff DAVIDON was the only unindicted co-conspirator whose legal residence was in or near Philadelphia at the time of the surveillance in question."

(d) On the basis of the information provided in paragraph 15 (d), and a review of the files of the Philadelphia Office, the FBI is unable to affirm or deny the allegation made in this section.

(e) (1) This allegation is true as regards defendant SMITH's testimony.

(2) The FBI is unable to affirm or deny the fact of plaintiff DAVIDON's presence in either the western or midwestern states during the period in question.

PARAGRAPH 16 alleges that all of this surveillance was in violation of the First and Fourth and Ninth Amendments, 18, United States Code, Section 2520 and 47 United States Code, Section 605.

ANSWER: The FBI denies that said surveillance was violative of either a Federal law or the Constitution of the United States as far as regards the interpretation of any pertinent Federal laws or amendments to the Constitution of the United States during the period that this national security installation was applied for, approved and operated in strict conformance to Departmental Directives governing such matters.

Sister Elizabeth McAlister, et al.
(Plaintiffs)
v.
Richard G. Kleindienst, Individually and as Attorney General of the United States, et al. (Defendants)

PARAGRAPH 17 alleges that said interceptions, overhearing, use and disclosure were not made in good faith reliance on a court order or legislative authorization.

ANSWER: The installation and operation of the device in question was made in good faith reliance on 18, United States Code, Section 2511 (3) interpreted as the Congress' approval of twenty-five years' experience in connection with the President's supposed power to authorize electronic surveillance in national security matters without prior judicial approval. There was nothing in fact or in law to militate against a good faith reliance on this supposed Presidential authority in domestic national security matters until the decision of the United States Supreme Court in United States v. United States District Court, Eastern District of Michigan, decided June 19, 1972, some two and one-half years after the device in this matter was deactivated. It would seem that the Government and its agents would, therefore, be insulated from civil liability in this matter per the holding of Bowens v. Knazze, 237 F. Supp. 826, wherein it was determined that so long as the defendant's conduct stemmed from his reasonable belief as to the requirements of the law and was not unreasonable in any other way, he cannot be held responsible . . . for deprivation the plaintiff's rights.

PARAGRAPH 2 - JURISDICTION

It is felt that the facts presented in this complaint do not establish jurisdiction in the Federal Courts of the Eastern District of Pennsylvania. Nowhere in this complaint, or in the motions, responses, affidavits, orders, or testimony alleged to be supportive of this complaint, is there any factual justification for the conclusion that the surveillance complained of took place in the Eastern District of Pennsylvania.

JUL 25 12 20 PM '72
JUSTICE

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FILED
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UNITED STATES OF AMERICA)
)
V.) NO. 14950
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EQBAL AHMAD, et al.)

STIPULATION

It is stipulated by and between counsel for the parties that the contents of or information contained in any tapes or transcripts thereof relating to any overhearing of conversations by means of electronic surveillance, shall not be disclosed to persons other than defense counsel of record or defendants Philip Berrigan and Elizabeth McAlister.

ATTORNEY FOR THE UNITED STATES OF AMERICA

ATTORNEY FOR DEFENDANT

RECEIVED
JUL 25 1972
Co... Control Unit
Internal Security Division

IT IS SO ORDERED

UNITED STATES DISTRICT JUDGE

May 1, 1972

FD-36 (Rev. 5-22-64)

FBI

Date: 12/7/72

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL _____ (Priority)

TO: ACTING DIRECTOR, FBI (62-115389)
ATTN: OFFICE OF LEGAL COUNSEL

FROM: SAC, PHILADELPHIA (62-5421)

SUBJECT: WILLIAM C. DAVIDON;
ET AL
v.
RICHARD G. KLIENDEINST;
ET AL
MISC INFORMATION CONCERNING
CIVIL ACTION NO. 72-1977,
EDPA.,
(00: Philadelphia)

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FEDERAL BUREAU OF INVESTIGATION

Enclosed for the information of the Office of Legal Counsel are five copies of draft interrogatories to be submitted to the plaintiffs in this matter.

Ltr to AAG Internal Security dtd 12/11/72. Glw:dek

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1-Philadelphia (62-5421)

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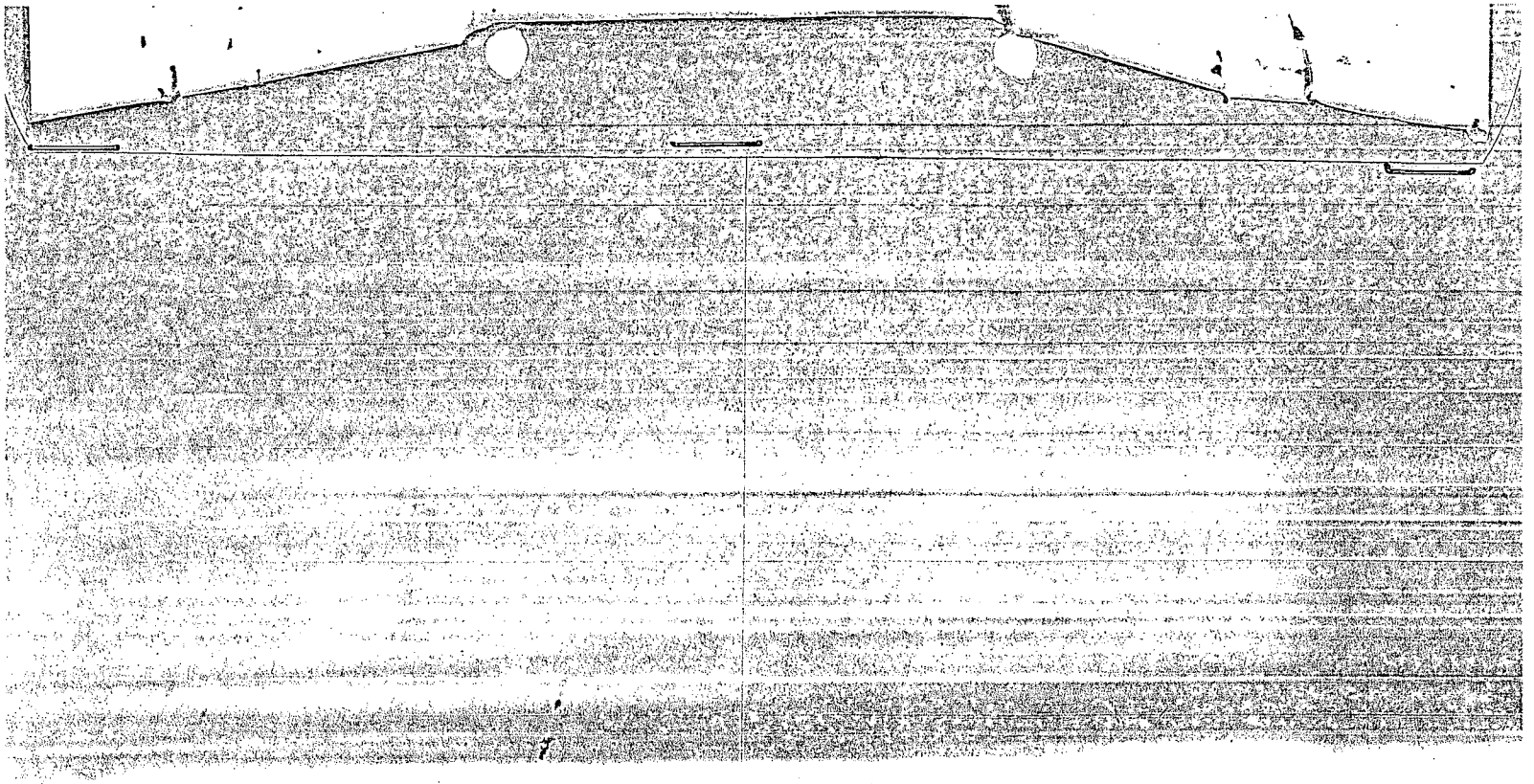
LEGAL COUNSEL

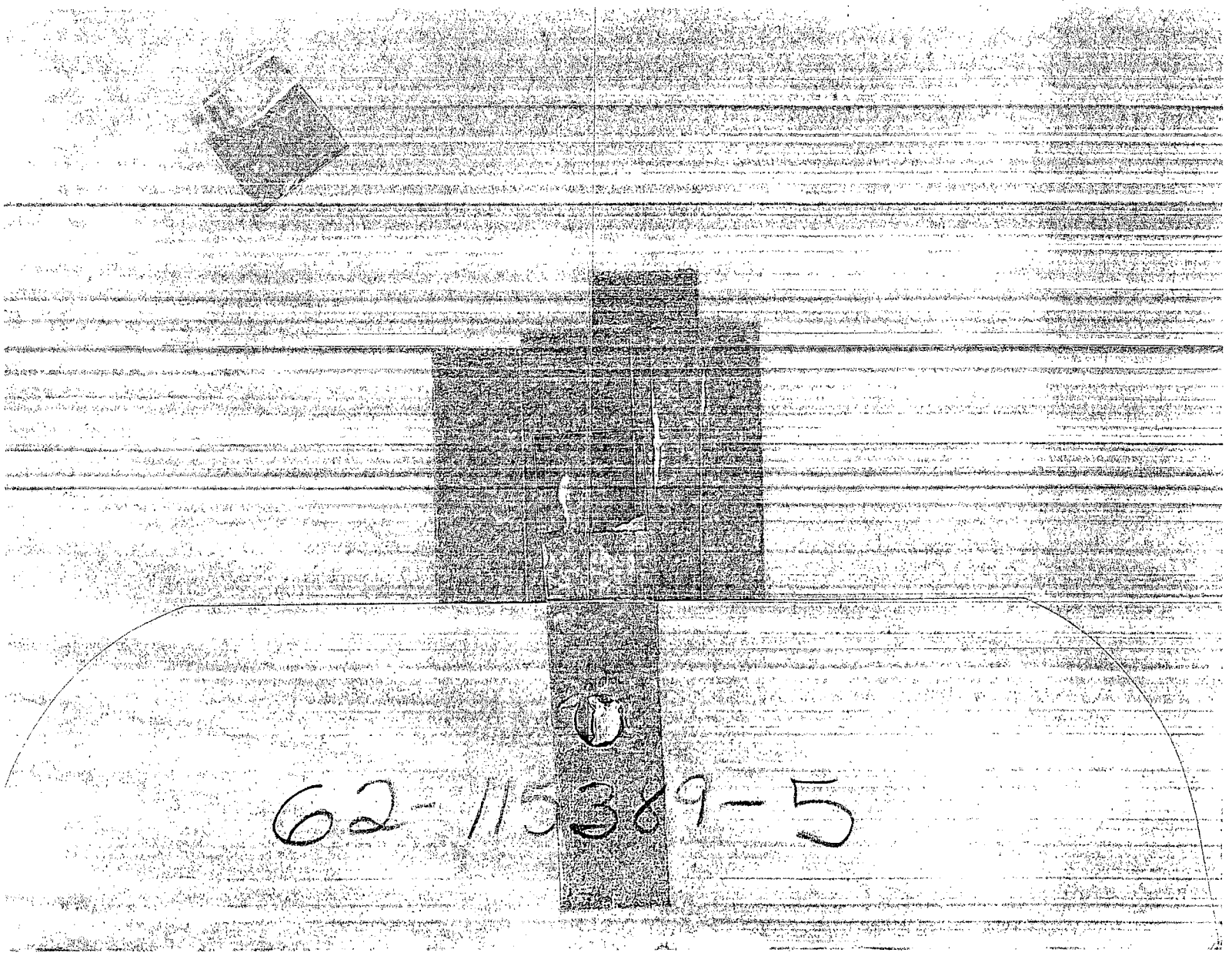
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Special Agent in Charge

Williamson

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62-115389-5

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SR. ELIZABETH MC ALISTER,	:	
WILLIAM DAVIDON	:	
Plaintiffs,	:	
vs.	:	CIVIL ACTION NO. 72-9177
RICHARD G. KLEINDEINST, ET AL.	:	
Defendants	:	

INTERROGATORIES

TO: Plaintiffs in the above captioned matter
c/o Jack J. Levine
1427 Walnut Street
Philadelphia, Pennsylvania 19102

Defendants hereby propound the following Interrogatories to plaintiffs in the above captioned matter to be answered under oath pursuant to Rule 33 of the Federal Rules of Civil Procedure. Answers to such Interrogatories are to be furnished within thirty (30) days after service pursuant to such rule.

These Interrogatories are to be deemed continuing so as to require plaintiffs to promptly furnish any and all information obtained after the filing of answers.

1. With respect to the allegations contained in paragraph 10 in the Complaint, state:

a. in detail:

(1) the basis and foundation for the plaintiffs' believe that the telephone conversations of plaintiff DAVIDON were allegedly monitored.

(2) the basis and foundation for the plaintiffs' believe that the telephone conversations of plaintiff DAVIDON were allegedly recorded.

(3) the basis and foundation for the plaintiffs' believe that the telephone conversations of plaintiff DAVIDON were allegedly disclosed and to whom.

(4) the basis and foundation for the plaintiffs' believe that the telephone conversations of plaintiff DAVIDON were allegedly used and in what ways.

b. the basis and foundation for the plaintiffs' belief that the alleged use and disclosure continued after that date (January 6, 1971) and continues to the present time.

2. With respect to the allegations in paragraph 11 of the Complaint, state:

a. in detail, the basis and foundation for the statement that this alleged surveillance was continual and uninterrupted with the possible exception of the period December 4, 1970, through January 2, 1971, inclusive.

b. disclose the plaintiffs' source of information, which forms the basis for the above statement made in paragraph 11.

3. With respect to the allegations contained in paragraph 12 of the Complaint, state:

a. the basis and foundation is:

(1) the plaintiffs' believe that this alleged surveillance was initiated and maintained without warrant.

(2) was initiated and maintained without other lawful authority.

4. With respect to the allegations contained in paragraph 14 of the Complaint, state:

a. the date during the course of the pre-trial proceedings in the case of United States v. Ahmad when the fact of the alleged surveillance was made known to plaintiff MC ALISTER and her attorneys.

b. the date, during the course of the post trial proceedings in the case of United States v. Ahmad when the contents of her own alleged monitored conversations were made known to her.

c. state with particularity the conditions under which the information referred to in paragraph 14 of the Complaint were made known to the plaintiff and her attorneys.

5. With respect to the allegations contained in paragraph 15 of the Complaint, state:

a. with particularity why plaintiff DAVIDON believes himself to be the target of the alleged surveillance in question based on alleged statements by defendant SMITH that the target of the surveillance was an unindicted alleged co-conspirator in the case of United States v. Ahmad, et al.

b. state with particularity the basis for plaintiff DAVIDON's belief that defendants SMITH, DURHAM, and/or JAMIESON were the individuals responsible for and with access to the laws of the alleged surveillance in question.

c. state with particularity the basis for plaintiff DAVIDON's belief that the above defendants were employed in the City of Philadelphia.

d. state with particularity the basis for plaintiff DAVIDON's belief that the logs of said alleged surveillance were housed in their office in that city.

e. state with particularity the basis for plaintiff DAVIDON's belief that he is the only unindicted alleged co-conspirator in the above criminal case who lived in or near Philadelphia at the time of the alleged surveillance in question.

f. state in detail the name of the newspaper, the date of publication, the number of the edition, the page or pages on which the story(s) appeared and the author of the alleged newspaper reports which stated that plaintiff DAVIDON was the subject of the alleged wiretap which monitored plaintiff MC ALISTER's conversations.

g. state with particularity the manner in which plaintiff DAVIDON and/or plaintiff MC ALISTER obtained the information regarding the alleged testimony of defendant SMITH by which the plaintiffs aver that the alleged wiretap was "out of operation from December 24, 1970, to January 2, 1971... because the subject or target, whatever you call it, was not at the premises."

h. furnish the names and current addresses of all persons whom plaintiff DAVIDON was allegedly visiting in the Western or mid-Western part of the United States during the period in question.

6. With respect to the allegations contained in paragraph 16, state:

the basis for the plaintiff's contention that all of this alleged surveillance was in violation of the First, Fourth, and Ninth Amendments, 18, U. S. Code, Section 2520, and 47, U. S. Code, Section 605.

7. With respect to the allegations contained in plaintiffs' Complaint paragraph 17, state:

the basis for the plaintiffs' contention that said alleged interceptions, overhearing, use and disclosure were not made in good faith, reliance on a court order or legislative authorization.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SR. ELIZABETH MC ALISTER,	:	
WILLIAM DAVIDON	:	
Plaintiffs,	:	
vs.	:	CIVIL ACTION NO. 72-9177
RICHARD G. KLEINDEINST, ET AL.	:	
Defendants	:	

INTERROGATORIES

TO: Plaintiffs in the above captioned matter
c/o Jack J. Levine
1427 Walnut Street
Philadelphia, Pennsylvania 19102

Defendants hereby propound the following Interrogatories to plaintiffs in the above captioned matter to be answered under oath pursuant to Rule 33 of the Federal Rules of Civil Procedure. Answers to such Interrogatories are to be furnished within thirty (30) days after service pursuant to such rule.

These Interrogatories are to be deemed continuing so as to require plaintiffs to promptly furnish any and all information obtained after the filing of answers.

1. With respect to the allegations contained in paragraph 10 in the Complaint, state:

a. in detail:

(1) the basis and foundation for the plaintiffs' believe that the telephone conversations of plaintiff DAVIDON were allegedly monitored.

(2) the basis and foundation for the plaintiffs' believe that the telephone conversations of plaintiff DAVIDON were allegedly recorded.

(3) the basis and foundation for the plaintiffs' believe that the telephone conversations of plaintiff DAVIDON were allegedly disclosed and to whom.

(4) the basis and foundation for the plaintiffs' believe that the telephone conversations of plaintiff DAVIDON were allegedly used and in what ways.

b. the basis and foundation for the plaintiffs' belief that the alleged use and disclosure continued after that date (January 6, 1971) and continues to the present time.

2. With respect to the allegations in paragraph 11 of the Complaint, state:

a. in detail, the basis and foundation for the statement that this alleged surveillance was continual and uninterrupted with the possible exception of the period December 4, 1970, through January 2, 1971, inclusive.

b. disclose the plaintiffs' source of information, which forms the basis for the above statement made in paragraph 11.

3. With respect to the allegations contained in paragraph 12 of the Complaint, state:

a. the basis and foundation is:

(1) the plaintiffs' believe that this alleged surveillance was initiated and maintained without warrant.

(2) was initiated and maintained without other lawful authority.

4. With respect to the allegations contained in paragraph 14 of the Complaint, state:

a. the date during the course of the pre-trial proceedings in the case of United States v. Ahmad when the fact of the alleged surveillance was made known to plaintiff MC ALISTER and her attorneys.

b. the date, during the course of the post trial proceedings in the case of United States v. Ahmad when the contents of her own alleged monitored conversations were made known to her.

c. state with particularity the conditions under which the information referred to in paragraph 14 of the Complaint were made known to the plaintiff and her attorneys.

5. With respect to the allegations contained in paragraph 15 of the Complaint, state:

a. with particularity why plaintiff DAVIDON believes himself to be the target of the alleged surveillance in question based on alleged statements by defendant SMITH that the target of the surveillance was an unindicted alleged co-conspirator in the case of United States v. Ahmad, et al.

b. state with particularity the basis for plaintiff DAVIDON's belief that defendants SMITH, DURHAM, and/or JAMIESON were the individuals responsible for and with access to the laws of the alleged surveillance in question.

c. state with particularity the basis for plaintiff DAVIDON's belief that the above defendants were employed in the City of Philadelphia.

d. state with particularity the basis for plaintiff DAVIDON's belief that the logs of said alleged surveillance were housed in their office in that city.

e. state with particularity the basis for plaintiff DAVIDON's belief that he is the only unindicted alleged co-conspirator in the above criminal case who lived in or near Philadelphia at the time of the alleged surveillance in question.

f. state in detail the name of the newspaper, the date of publication, the number of the edition, the page or pages on which the story(s) appeared and the author of the alleged newspaper reports which stated that plaintiff DAVIDON was the subject of the alleged wiretap which monitored plaintiff MC ALISTER's conversations.

g. state with particularity the manner in which plaintiff DAVIDON and/or plaintiff MC ALISTER obtained the information regarding the alleged testimony of defendant SMITH by which the plaintiffs aver that the alleged wiretap was "out of operation from December 24, 1970, to January 2, 1971... because the subject or target, whatever you call it, was not at the premises."

h. furnish the names and current addresses of all persons whom plaintiff DAVIDON was allegedly visiting in the Western or mid-Western part of the United States during the period in question.

6. With respect to the allegations contained in paragraph 16, state:

the basis for the plaintiff's contention that all of this alleged surveillance was in violation of the First, Fourth, and Ninth Amendments, 18, U. S. Code, Section 2520, and 47, U. S. Code, Section 605.

7. With respect to the allegations contained in plaintiffs' Complaint paragraph 17, state:

the basis for the plaintiffs' contention that said alleged interceptions, overhearing, use and disclosure were not made in good faith, reliance on a court order or legislative authorization.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SR. ELIZABETH MC ALISTER,	:	
WILLIAM DAVIDON	:	
Plaintiffs,	:	
vs.	:	CIVIL ACTION NO. 72-9177
RICHARD G. KLEINDEINST, ET AL.	:	
Defendants	:	

INTERROGATORIES

TO: Plaintiffs in the above captioned matter
c/o Jack J. Levine
1427 Walnut Street
Philadelphia, Pennsylvania 19102

Defendants hereby propound the following Interrogatories to plaintiffs in the above captioned matter to be answered under oath pursuant to Rule 33 of the Federal Rules of Civil Procedure. Answers to such Interrogatories are to be furnished within thirty (30) days after service pursuant to such rule.

These Interrogatories are to be deemed continuing so as to require plaintiffs to promptly furnish any and all information obtained after the filing of answers.

1. With respect to the allegations contained in paragraph 10 in the Complaint, state:

a. in detail:

(1) the basis and foundation for the plaintiffs' believe that the telephone conversations of plaintiff DAVIDON were allegedly monitored.

(2) the basis and foundation for the plaintiffs' believe that the telephone conversations of plaintiff DAVIDON were allegedly recorded.

(3) the basis and foundation for the plaintiffs' believe that the telephone conversations of plaintiff DAVIDON were allegedly disclosed and to whom.

(4) the basis and foundation for the plaintiffs' believe that the telephone conversations of plaintiff DAVIDON were allegedly used and in what ways.

b. the basis and foundation for the plaintiffs' belief that the alleged use and disclosure continued after that date (January 6, 1971) and continues to the present time.

2. With respect to the allegations in paragraph 11 of the Complaint, state:

a. in detail, the basis and foundation for the statement that this alleged surveillance was continual and uninterrupted with the possible exception of the period December 4, 1970, through January 2, 1971, inclusive.

b. disclose the plaintiffs' source of information, which forms the basis for the above statement made in paragraph 11.

3. With respect to the allegations contained in paragraph 12 of the Complaint, state:

a. the basis and foundation is:

(1) the plaintiffs' believe that this alleged surveillance was initiated and maintained without warrant.

(2) was initiated and maintained without other lawful authority.

4. With respect to the allegations contained in paragraph 14 of the Complaint, state:

a. the date during the course of the pre-trial proceedings in the case of United States v. Ahmad when the fact of the alleged surveillance was made known to plaintiff MC ALISTER and her attorneys.

b. the date, during the course of the post trial proceedings in the case of United States v. Ahmad when the contents of her own alleged monitored conversations were made known to her.

c. state with particularity the conditions under which the information referred to in paragraph 14 of the Complaint were made known to the plaintiff and her attorneys.

5. With respect to the allegations contained in paragraph 15 of the Complaint, state:

a. with particularity why plaintiff DAVIDON believes himself to be the target of the alleged surveillance in question based on alleged statements by defendant SMITH that the target of the surveillance was an unindicted alleged co-conspirator in the case of United States v. Ahmad, et al.

b. state with particularity the basis for plaintiff DAVIDON's belief that defendants SMITH, DURHAM, and/or JAMIESON were the individuals responsible for and with access to the laws of the alleged surveillance in question.

c. state with particularity the basis for plaintiff DAVIDON's belief that the above defendants were employed in the City of Philadelphia.

d. state with particularity the basis for plaintiff DAVIDON's belief that the logs of said alleged surveillance were housed in their office in that city.

e. state with particularity the basis for plaintiff DAVIDON's belief that he is the only unindicted alleged co-conspirator in the above criminal case who lived in or near Philadelphia at the time of the alleged surveillance in question.

f. state in detail the name of the newspaper, the date of publication, the number of the edition, the page or pages on which the story(s) appeared and the author of the alleged newspaper reports which stated that plaintiff DAVIDON was the subject of the alleged wiretap which monitored plaintiff MC ALISTER's conversations.

g. state with particularity the manner in which plaintiff DAVIDON and/or plaintiff MC ALISTER obtained the information regarding the alleged testimony of defendant SMITH by which the plaintiffs aver that the alleged wiretap was "out of operation from December 24, 1970, to January 2, 1971... because the subject or target, whatever you call it, was not at the premises."

h. furnish the names and current addresses of all persons whom plaintiff DAVIDON was allegedly visiting in the Western or mid-Western part of the United States during the period in question.

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the basis for the plaintiff's contention that all of this alleged surveillance was in violation of the First, Fourth, and Ninth Amendments, 18, U. S. Code, Section 2520, and 47, U. S. Code, Section 605.

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the basis for the plaintiffs' contention that said alleged interceptions, overhearing, use and disclosure were not made in good faith, reliance on a court order or legislative authorization.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SR. ELIZABETH MC ALISTER,	:	
WILLIAM DAVIDON	:	
Plaintiffs,	:	
vs.	:	CIVIL ACTION NO. 72-9177
RICHARD G. KLEINDEINST, ET AL.	:	
Defendants	:	

INTERROGATORIES

TO: Plaintiffs in the above captioned matter
c/o Jack J. Levine
1427 Walnut Street
Philadelphia, Pennsylvania 19102

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(2) the basis and foundation for the plaintiffs' believe that the telephone conversations of plaintiff DAVIDON were allegedly recorded.

(3) the basis and foundation for the plaintiffs' believe that the telephone conversations of plaintiff DAVIDON were allegedly disclosed and to whom.

(4) the basis and foundation for the plaintiffs' believe that the telephone conversations of plaintiff DAVIDON were allegedly used and in what ways.

b. the basis and foundation for the plaintiffs' belief that the alleged use and disclosure continued after that date (January 6, 1971) and continues to the present time.

2. With respect to the allegations in paragraph 11 of the Complaint, state:

a. in detail, the basis and foundation for the statement that this alleged surveillance was continual and uninterrupted with the possible exception of the period December 4, 1970, through January 2, 1971, inclusive.

b. disclose the plaintiffs' source of information, which forms the basis for the above statement made in paragraph 11.

3. With respect to the allegations contained in paragraph 12 of the Complaint, state:

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(1) the plaintiffs' believe that this alleged surveillance was initiated and maintained without warrant.

(2) was initiated and maintained without other lawful authority.

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a. the date during the course of the pre-trial proceedings in the case of United States v. Ahmad when the fact of the alleged surveillance was made known to plaintiff MC ALISTER and her attorneys.

b. the date, during the course of the post trial proceedings in the case of United States v. Ahmad when the contents of her own alleged monitored conversations were made known to her.

c. state with particularity the conditions under which the information referred to in paragraph 14 of the Complaint were made known to the plaintiff and her attorneys.

5. With respect to the allegations contained in paragraph 15 of the Complaint, state:

a. with particularity why plaintiff DAVIDON believes himself to be the target of the alleged surveillance in question based on alleged statements by defendant SMITH that the target of the surveillance was an unindicted alleged co-conspirator in the case of United States v. Ahmad, et al.

b. state with particularity the basis for plaintiff DAVIDON's belief that defendants SMITH, DURHAM, and/or JAMIESON were the individuals responsible for and with access to the laws of the alleged surveillance in question.

c. state with particularity the basis for plaintiff DAVIDON's belief that the above defendants were employed in the City of Philadelphia.

d. state with particularity the basis for plaintiff DAVIDON's belief that the logs of said alleged surveillance were housed in their office in that city.

e. state with particularity the basis for plaintiff DAVIDON's belief that he is the only unindicted alleged co-conspirator in the above criminal case who lived in or near Philadelphia at the time of the alleged surveillance in question.

f. state in detail the name of the newspaper, the date of publication, the number of the edition, the page or pages on which the story(s) appeared and the author of the alleged newspaper reports which stated that plaintiff DAVIDON was the subject of the alleged wiretap which monitored plaintiff MC ALISTER's conversations.

g. state with particularity the manner in which plaintiff DAVIDON and/or plaintiff MC ALISTER obtained the information regarding the alleged testimony of defendant SMITH by which the plaintiffs aver that the alleged wiretap was "out of operation from December 24, 1970, to January 2, 1971... because the subject or target, whatever you call it, was not at the premises."

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the basis for the plaintiff's contention that all of this alleged surveillance was in violation of the First, Fourth, and Ninth Amendments, 18, U. S. Code, Section 2520, and 47, U. S. Code, Section 605.

7. With respect to the allegations contained in plaintiffs' Complaint paragraph 17, state:

the basis for the plaintiffs' contention that said alleged interceptions, overhearing, use and disclosure were not made in good faith, reliance on a court order or legislative authorization.

Assistant Attorney General
Internal Security Division

December 14, 1972

For the Acting Director, FBI
W. Mark Felt
Acting Associate Director

1 - Mr. Miller
1 - Mr. Dalbey
1 - Mr. Williamson

SISTER ELIZABETH McALISTER, et al. v.
RICHARD G. KLEINDIENST, et al.
(E.D. PA.) CIVIL ACTION NO. 72-1977

Our letter, captioned as above, dated November 17, 1972, advised that, pursuant to your earlier request, draft interrogatories would be submitted for your consideration.

Enclosed are proposed interrogatories which we suggest be propounded to plaintiffs herein.

Enclosure

NOTE: Based on Bureau letter 11/17/72 captioned as above and Philadelphia airtel 12/7/72 captioned "William C. Davidon, et al." which enclosed draft of interrogatories prepared by the Philadelphia Division. These have been edited and rewritten by the Office of Legal Counsel and are in proper form for submission to the Department.

JLW:deh
(6)

Felt
Baker
Callahan
Cleveland
Conrad
Dalbey
Gebhardt
Jenkins
Marshall
Miller, E.S.
Purvis
Soyars
Walters
Tele. Room
Mr. Kinley
Mr. Armstrong
Ms. Herwig
Mrs. Neenan

MAILED 3
DEC 14 1972
FBI

ENCLOSURE

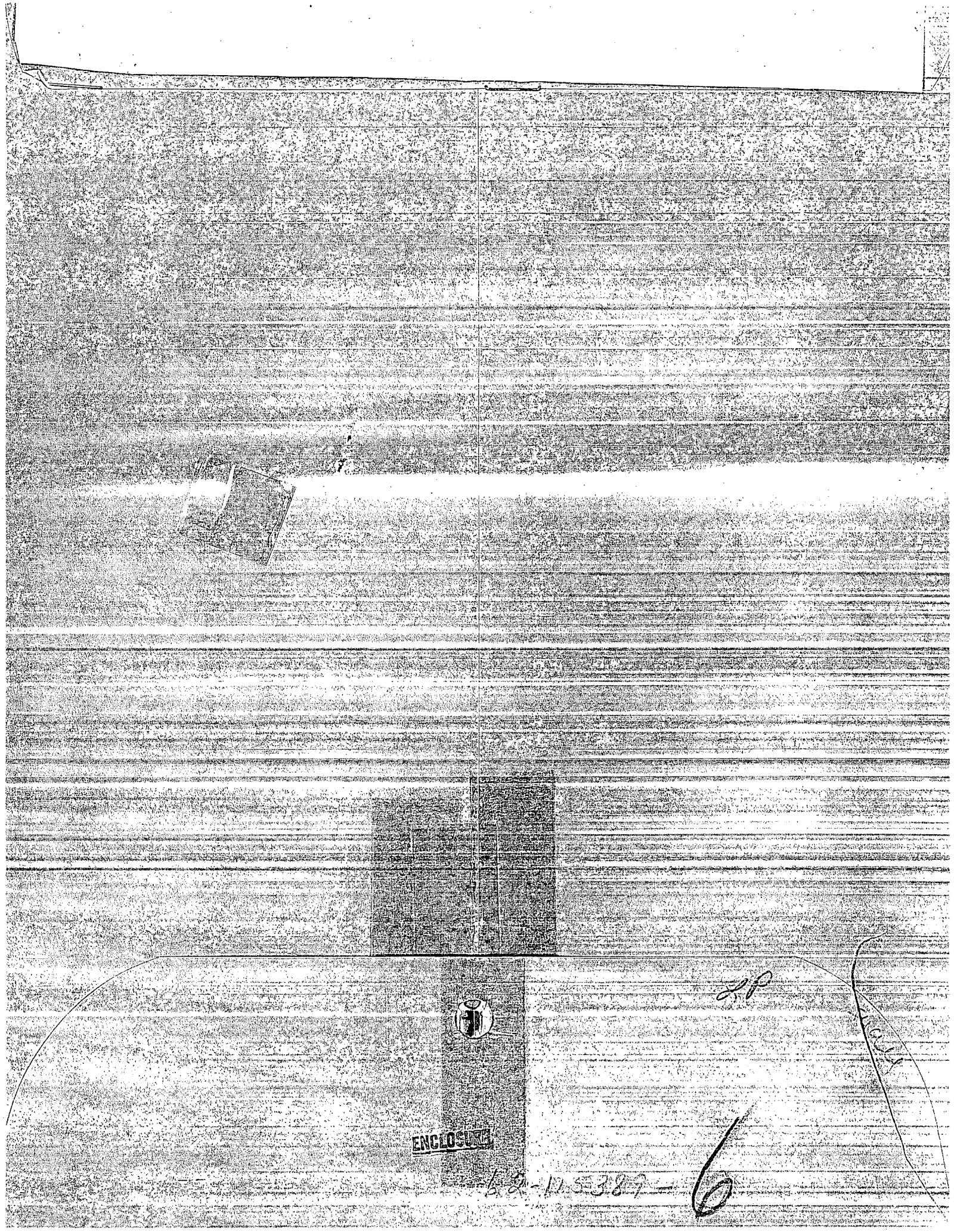
ENCLOSURE ATTACHED

MAIL ROOM TELETYPE UNIT

ST-104
REC-1
62-115389

16 DEC 15 1972

DEC 22 1972


ENCLOSURE
62-115387
6

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SISTER ELIZABETH McALISTER,

WILLIAM DAVIDON

Plaintiffs,

v.

CIVIL ACTION NO. 72-1977

RICHARD G. KLEINDIENST, et al.

Defendants

INTERROGATORIES

TO: Plaintiffs in the above captioned matter
c/o Jack J. Levine
1427 Walnut Street
Philadelphia, Pennsylvania 19102

Defendants hereby propound the following Interrogatories to plaintiffs in the above captioned matter to be answered under oath pursuant to Rule 33 of the Federal Rules of Civil Procedure. Answers to such interrogatories are to be furnished within thirty (30) days after service pursuant to such rule.

These Interrogatories are to be deemed continuing so as to require plaintiffs to promptly furnish any and all information obtained after the filing of answers.

1. With respect to the allegations contained in paragraph 10 in the Complaint, state:

a. the basis and foundation for the plaintiffs' belief that the telephone conversations of plaintiff Davidon were allegedly monitored.

b. the basis and foundation for the plaintiffs' belief that the telephone conversations of plaintiff Davidon were allegedly recorded.

c. the basis and foundation for the plaintiffs' belief that the telephone conversations of plaintiff Davidon were allegedly disclosed and to whom.

d. the basis and foundation for the plaintiffs' belief that the telephone conversations of plaintiff Davidon were allegedly used and in what ways.

e. the basis and foundation for the plaintiffs' belief that the alleged use and disclosure continued after that date (January 6, 1971) and continues to the present time.

2. With respect to the allegations in paragraph 11 of the Complaint, state:

a. in detail, the basis and foundation for the statement that this alleged surveillance was continual and uninterrupted with the possible exception of the period December 4, 1970, through January 2, 1971, inclusive.

b. the identity of plaintiffs' source of information, which forms the basis for the above statement made in paragraph 11.

3. With respect to the allegations contained in paragraph 12 of the Complaint, state:

a. the basis and foundation for the plaintiffs' belief that this alleged surveillance was initiated and maintained without warrant.

b. the basis and foundation for the plaintiffs' belief that this alleged surveillance was initiated and maintained without other lawful authority.

4. With respect to the allegations contained in paragraph 14 of the Complaint, state:

a. the date during the course of the pretrial proceedings in the case of United States v. Ahmad when the fact of the alleged surveillance was made known to plaintiff McAlister and her attorneys.

b. the date, during the course of the post trial proceedings in the case of United States v. Ahmad when the contents of her own alleged monitored conversations were made known to her.

c. with particularity the conditions under which the information referred to in paragraph 14 of the Complaint were made known to the plaintiff and her attorneys.

5. With respect to the allegations contained in paragraph 15 of the Complaint, state:

a. with particularity why plaintiff Davidon believes himself to be the target of the alleged surveillance in question based on alleged statements by defendant Smith that the target of the surveillance was an unindicted alleged co-conspirator in the case of United States v. Ahmad.

b. with particularity the basis for plaintiff Davidon's belief that defendants Smith, Durham, and/or Jamieson were the individuals responsible for and with access to the logs of the alleged surveillance in question.

c. with particularity the basis for plaintiff Davidon's belief that the above defendants were employed in the City of Philadelphia.

d. with particularity the basis for plaintiff Davidon's belief that the logs of said alleged surveillance were housed in their office in that city.

e. with particularity the basis for plaintiff Davidon's belief that he is the only unindicted alleged co-conspirator in the above criminal case who lived in or near Philadelphia at the time of the alleged surveillance in question.

f. in detail the name of the newspaper, the date of publication, the number of the edition, the page or pages on which the story(s) appeared and the author of the alleged newspaper reports which stated that plaintiff Davidon was the subject of the alleged wiretap which monitored plaintiff McAlister's conversations.

g. with particularity the manner in which plaintiff Davidon and/or plaintiff McAlister obtained the information regarding the alleged testimony of defendant Smith by which the plaintiffs aver that the alleged wiretap was "out of operation from December 24, 1970, to January 2, 1971. . . because the subject or target, whatever you call it, was not at the premises."

h. the names and current addresses of all persons whom plaintiff Davidon was allegedly visiting in the Western or Midwestern part of the United States during the period in question.

Airtel

To: SAC, Philadelphia (62-5421) 4/10/73

From: Acting Director, FBI

1 - Mr. Miller
1 - Mr. Mintz
1 - Mr. Williamson

SISTER ELIZABETH McALISTER, et al. v.
RICHARD G. KLEINDIENST, et al.,
(E.D. Pa.) CIVIL ACTION NO. 72-1977

In connection with captioned civil suit, the Criminal Division has requested that they be advised if Philadelphia has the toll call records for telephone number MI 9-6154 (subscriber, William Davidon) from 11/24/70 to 1/6/71.

The inquiry is prompted by a letter from the AUSA, Philadelphia, to the Department in which it was stated that [redacted] of the Bell Telephone Company had been subpoeaned to produce these records and [redacted] had advised the USA's Office that such records have either been destroyed or were not available. b6 b7C

The Department is concerned that if we have the records that it would be improper for [redacted] to appear and state the records are not available. b6 b7C

Advise the Bureau, attention Office of Legal Counsel.

Expedite.

NOTE: In connection with captioned matter [redacted], Criminal Division, requested Philadelphia determine if they have Davidon's toll records. b6 b7C

JLW:deh
(7)

EX-111 REC-69 62-115389-9

Mr. Felt
Mr. Baker
Mr. Callahan
Mr. Cleveland
Mr. Conrad
Mr. Gebhardt
Mr. Jenkins
Mr. Marshall
Mr. Miller, E.S.
Mr. Soyars
Mr. Thompson
Mr. Walters
Tele. Room
Mr. Kinley
Mr. Armstrong
Mr. Bowers
Mr. Herington
Ms. Herwig
Mr. Mintz
Mrs. Neenan

MAILED 9
APR 10 1973
FBI

APR 10 1973

54 APR 24 1973

MAIL ROOM ☐ TELETYPE UNIT ☐

W. Williamson

FD-36 (Rev. 5-22-64)

FBI

Date: 4/2/73

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL _____ (Priority)

TO: ACTING DIRECTOR, FBI (62-115389)

FROM: SAC, PHILADELPHIA (62-5421) (P)

SUBJECT: WILLIAM C. DAVIDON, ET AL
Versus
RICHARD G. KLEINDIENST, ET AL
Civil Action #72-1977, EDPA.
OO: PHILADELPHIA

Re Philadelphia airtel to Bureau, 12/7/72.

Enclosed for the Bureau is a copy of defendant's Request for Admissions. The motion and order pertaining to plaintiff's extention of time were not available to AUSA [redacted]. Recognizing that excellent liaison exists between the Office of Legal Counsel and the Department, Philadelphia, will discontinue forwarding copies of pleadings in this and similar cases, unless the Office deems the present practice more desirable.

On 3/23/73, SA [redacted] contacted AUSA [redacted], Philadelphia, Pa., concerning the status of captioned civil suit. [redacted] advised that on 2/7/73, a Request for Admissions was filed by defendants in U. S. District Court, EDPA., and that no response has been forthcoming from plaintiffs.

REC-67 62-115389-10

EX-111

[redacted] telephoned [redacted], Civil Litigation Section of the Internal Security Division of the Department, who is handling this case for the Department. [redacted] stated that plaintiffs filed for and have been grant an extentions of time in which to respond to the Request for Admissions. In addition, [redacted] is considering filing interrogatories of plaintiffs.

57 APR 26 1973

(2) - Bureau (62-115389) (Enc. 1)
1 - Philadelphia (62-5421)
RCH:jmd
(3)

ENCLOSURE

17 APR 7 1973

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

GPO : 1970 O - 402-735

Inasmuch as draft interrogatories were submitted per referenced airtel, no additional draft pleadings are contemplated at this time.

AUSA [redacted] advised there have been no additional developments in this case and that he will keep the case agent apprised of developments as they occur. The latter, in turn, will keep the Office of Legal Counsel current in this matter.

b6
b7C

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SISTER ELIZABETH McALISTER, ET AL., Plaintiffs,	)	
v.	)	Civil Action No. 72-197
RICHARD G. KLEINDIENST, ET AL., Defendants.	)	

REQUEST FOR ADMISSIONS

Pursuant to Rule 36, Federal Rules of Civil Procedure, defendant Richard G. Kleindienst, et al. request that plaintiff Elizabeth McAlister, within thirty (30) days after service of this request, make the following admissions for the purpose of this action only and subject to all pertinent objections to admissibility which may be interposed at trial:

1. That plaintiff McAlister is the author of the document, a copy of which is attached hereto as Exhibit A.

2. That on or about August 1, 1970 plaintiff McAlister caused the contents of the communication attached hereto as Exhibit A to be transmitted to one Philip Berrigan in Lewisburg, Pennsylvania.

3. That plaintiff McAlister is the author of the document, a copy of which is attached hereto as Exhibit B(1).

4. That plaintiff McAlister is the author of the document, a copy of which is attached hereto as Exhibit B(2).

5. That on or about August 18, 1970 plaintiff McAlister caused the document, a copy of which is attached hereto as Exhibit B(1), to be transmitted to one Boyd Douglas in Lewisburg, Pennsylvania.

6. That on or about August 18, 1970 plaintiff McAlister caused the contents of the communication attached hereto as Exhibit B(2) to be transmitted to Philip Berrigan in Lewisburg, Pennsylvania.

7. That on or about August 17, 1970 plaintiff McAlister, plaintiff Davidon, Paul Mayer and Jogues Egan travelled to Connecticut.

8. That on or about August 17, 1970 plaintiff McAlister, plaintiff Davidon, Eqbal Ahmad, Paul Mayer and Jogues Egan met in Connecticut.

9. That on or about August 25, 1970 plaintiff McAlister received the document, a copy of which is attached hereto as Exhibit C, which was authored and caused to be sent to her by Philip Berrigan in Lewisburg, Pennsylvania.

Respectfully submitted,

A. WILLIAM OLSON
Assistant Attorney General

ROBERT E. J. CURRAN
United States Attorney

EDWARD S. CHRISTENBURY
Attorney
Department of Justice
Washington, D. C. 20530
Phone: 202-739-2361

CERTIFICATE OF SERVICE

I hereby certify that on this date I served the foregoing Request for Admissions upon all parties by serving a copy thereof, by United States mail, postage prepaid, upon the following counsel of record:

Jack J. Levine, Esquire
David Kairys, Esquire
David Rudovsky, Esquire
1427 Walnut Street
Philadelphia, Pennsylvania 19102

William Bender, Esquire
103 Washington Street
Newark, New Jersey 07102

2/1/73
Date

EDWARD S. CHRISTENBURY
Attorney
Department of Justice
Washington, D. C. 20530

n the level of smog as an indicator of general insanity !

Monday a sort of "where are we at" session with Paul M. + then the
sort for instructions from Doug Dowd. He is off to Europe on a high
el but secret sort of mission. I'll mention it here trusting you to
o it confidential (as if there were a lot of people to whom you could
n tell it). The Swedish govt. - or some officials in it - have
erved the path U.S. govt. is taking quite as we have. They feel the
y defense against it is the resistance here + they're willing to
port that at least financially upwards of several million.
g was asked to come + discuss that. He flew to Rome + will make
way west to keep it somewhat off the records. In view of this,
let him go rather than insisting that he see this surfacing thing
ough. Don't know if I had told you this but he had urged - along
th Chomsky - the postponement of this until Sept 15. Reasons:
's hard to do something like this in Summer as people are away +
t it needs more time, etc.. We protested: 1) that does not respect
urgency of the summer + puts it on the level of our convenience which
War is not. 2) too far removed from the action 3) people already
mmitted can not, psychologically speaking, be told "postponement"
d 4) we want to get this over with to get on to other things. So they
peed + we agreed to sit on the Ithica returns if + when Doug
ft. So here I am in Ithica - something of respet in a very
autiful setting + something of frustration dependent on word of
rson + place commitments from people in NY. + Haverford. Just
ast night (Thurs. a.m., July 30 or is now) got word on use of Wilmington
riends Service place for hospitality on arrival in Delaware.
's definite word on a folk singer - the 6th + 9th are benefits for Peace
ndidates + seems they're all tied up in that + feel that's their
vel of commitment. Also yesterday a frustrating - annoying conversation
th Anne Walsh. Mike Feiber (slated for press conf.) is in England
in a circumloquition Strongfellow may not be usable because he
part of Brun's next move. But someone would tell me this -
en + how I don't know! Gee - I began to feel at cross-purposes
ith Brun as we have conscientiously avoided anyone involved with
im. I began to share Ed's feelings of last week that concern for
curity can paralyze people + when it does, it ain't worth it.
it's on the feeling level + by no means a rational judgement at this
nit. Will wait until the info is in + I understand what's happening.

EXHIBIT "A"

little better before I make any judgement. But I just spoke to Paul & says it's pretty definite & he's also annoyed about it but he's also withholding judgement. Anyhow...

Saw the Syracuse bloodline last night. Tues. night it was important that st up there since none had seen him re: arrangements for a meeting with a bloodline in N.Y. this weekend. By the time I got there, contact had en made so it was wasted drive from business point of view but still od to see them. They said they had seen you Sat. & you looked lean & andsome (impossible!!) & were in top mental & psychological form. rumph! Got a touch of the good old Berrigan bear hug (sans bruises!) & ad a nice hour or so with them & drove back. Understand Freda had nother fall & a break in the left thigh but is still in Lourdes Rest & couple of weeks bed rest will heal it up. She's had a full dose of it et no sign of discouragement. "We Berrigans never show the white flag!"

Will write again to Hendrick tomorrow at latest. Would like to have no response to the first before writing a second. I think/hope you understand effort there which is to humanize the thing a little. Since it was necessary to be known, may as well let the better side be known. Would lso want to bring in the reinstatement of correspondence (& visiting, too, a possibility) as an aside & not as main issue. Had also thought going up here might (& this is a longshot) be occasion to see you & would certainly e opportunity to see Gary & friends. Jacques, Anny, & possibly Ned are coming up here tomorrow & we'll all go back Sun. by which time the returns will/should all be in. She will check on mail at 85th before coming. If he was as prompt in answering as he seemed, it should be here & I'll answer it & introduce the question. If it hasn't come by then I'll write anyhow.

Ned Murphy has accepted a job as chaplain at a G.I. Coffeehouse near Boston to begin Oct. 1. Both Ed & David have been trying to encourage some of us to get into this sort of thing since the resistance in the army is ow a significant area of work. We have staunchly resisted - by & large but given Ned's incapacity for organizing &/or for any sustained work in this line, it may be a good thing for him & as well a bridge between 2 different aspects of the movement.

--- Why don't you take off for a couple of days & come up here - really a great setting, right on the lake, very private, we'd have a great time It's too much to even mention it, huh. But it's very much in my mind - being suppressed all the while by a grit-toothed acceptance of the real. But this would beat the Pennsylvania farm country in more ways than one.

The enclosed is dynamite + I mean it. The proposal (# 3) is something me + I mean noone should know about. I want his mbs to the reasons indicated + you must of necessity. So it's something I'm trusting to you. I want him to get this letter if at all possible, if at least the contents of it.

How are you? Loved the time spent in Leesburg. You have a utiful community there which needs only someone within it to it to action. I kind of think, at this stage, that that is ential. They've seen enough of outsiders + know the facts. One them must now take the leap or an action must be done there an outside group + let them work out the follow-up - that as a stage in resistance.

Listen, I'll call Friday at 4:00 at the 524-0038 number. don't answer, I'll presume you haven't gotten this yet + try for 12:15. We didn't set up a time + I don't want to call the so this seemed best.

lots of love to you + all

liz

EXHIBIT "B(1)"

The Lot of Political Prisoners in the Federal Penal System:

Before engaging a question like federal Penal System policy toward Political Prisoners, one must provide a context for its operations, both national + local. Whenever like a few behaviorist penologists, one deals with penal reality as an isolated phenomenon, subject in no sense to deeper causes. In this limited view, the inmate becomes one victimized by a backward penal system. Time considerations being what they are guess this will be the last effort along these lines + this may even come too late – who knows. There are basically 3 things I want to let you know. First, by way of reaction to – evaluation of the top level thing. It is my guess that H. got the 2nd letter claiming rights for reinstatement. This for 2 reasons. His attitude toward me was a complete about face. He was out for blood (mine) in at least the 1st 3 hours. And that wasn't expected since he claimed he didn't get it. The letter contained a criticism of the NY Times piece & the guy who was given a look at you + then went on to ask for reinstatement. Evidences of this new attitude were plentiful + none of us could have missed it. Nothing would stop him from reading a section of the contraband + going beyond the issue into a personal note was more than accidental. He told me I was the most selfish person he'd ever met etc. I Refused to be angry or respond on that level. He was clearly distraught by the whole thing + is a violent person – a violence he failed utterly to control. I would not exactly say it was a productive thing although I feel some understanding was created. You would know best the outcome + effectiveness, if any. But then we did not know what to expect or what we wished to achieve. The best part was seeing you + the old fighting spirit + to know first hand that beyond physical confinement, they had no control over you. Funny – was always able to tolerate these group sessions that demanded such discipline because there would usually be a space of time later on when that could be let down. The horror of Fri. was that there was no space afterwards + I only fully grasped that later that night. In all our efforts to face reality, in some instances it still eludes us. The second is the proposal that I/s jokingly I opened to you in the corridor. If you would like it – now or some time later – we can do it. See him + talk to him about it if you wish + think it over seriously + we'll work it out. En route to Danbury might be too soon at this point to do anything. Either while there or a later passage is subject to discussion. We can also arrange it "non violently". I say this not to exert pressure one way or another. The future is an unknown – except in certain status quo areas – + I don't have a preference for the exact lines that future will take. I'm open to all sorts of possibilities + the reality will undoubtedly be "none of these." One problem I have with that (i.e. either you or D. coming out) is that it says the movement can't go on with one of you / or both. And I'm arrogant enough to think / believe that your being where you are is enough to make the rest of us get off our tails to prove that it can. Which leads me to #3 + this is

EXHIBIT "B(2)"

utter confidence + should not be committed to paper + I would want you not even to say a word of it to Dan until we have a fuller grasp of it. I say it to you for 2 reasons. The first obviously is to get your thinking on it, the second to give you some confidence that people are thinking seriously of escallating resistance. Eq called us up to Conn. last night along with Bill Davidon who, in case people have not told you, has become one of our better people. Parenthetically someone with a knowledge of the scene, a keen sense for tactic + detail + little fear of risk for himself. He's the most central fig. in the Phila. scene + went into the Boards in Georgetown with those kids. Eq outlined a plan for an action which would say - escallated seriousness - + we discussed - pros + cons for several hours. It needs much more thought + careful selection of personnel. To kidnap - in our terminology make a citizins arrest of - someone like Henry Kissinger. Him because of his influence as policy maker - yet sans cabinet status, he would therefore not be as much protected as one of the bigger wigs; he is a bachelor which would mean if he were so guarded, he would be anxious to have unguarded moments where he could carry on his private affairs - literally + figuratively. To issue a set of demands e.g. cessation of use of B52s over N. Vietnam, Laos Cambodia + release of political prisoners. Hold him for about a week during which time big wigs of the liberal ilk would be brought to him - also kidnapped if necessary (which for the most part it would be) - + hold a trial or grand jury affair out of which an indictment would be brought. There is no pretense of these demands being met + he would be released after this time with a word that we're non-violent as opposed to you who would let a man be killed - one of your own - so that you can go on killing. The liberals would also be released as would a film of the whole proceedings in which, hopefully, he would be far more honest than he is on his own territory. The impact of such a thing would be phenomenal. Reasons for wanting to do it: it will ultimately be done by someone here + end in praises or violence + killing. Eq. wants to do it + do it well + I believe he has the know-how to direct such an escapade. The major problem, as I see it, is the severe consequences for something that is largely "drama" with little lasting effect. Second problem I envision is position of something like this in a movement context i.e. what next. Some thought would have to be given to that. It seems at least possible to have 2 fairly distinct groups on the one hand the felons who have a scant chance but a chance of remaining anonymous + the big wigs who will provide the "public" aspect of the action who are preserved by their own position as "captives" also. The concept of a film of the

before anyone else does it to us

rial to be released to TV etc. is phenomenal. Then his aspect of the war will be at least impeeded by his absence + the involvement of all close to him in an investigate of his whereabouts. Think about it + maybe when I see you in Danbury I can get your thoughts as well as fill you in on where the plan lies. Otherwise I'm meeting with Paul Cowan this afternoon, with the Merton-Baker House folk this evening + later tonight with Lee Lockwood, a guy doing an NET documentary on Dave + you + wants some help. Be on in about 3 weeks. Tomorrow a meeting at the college in T.T. to work out possibilities there followed by a session with Jim Forest + Judy to work out more immediate projects + possibilities. Paul Mayer is en route to Cuba for that international resistance thing. He'll be gone for about a month so the Picatinny Arsenal project can't really get underway until he comes back. That's, as I believe I told you, a long term thing. The aspirations have to do with a series of sessions with some of the engineers who work there who have shown interest in a more intense than life. Over a long period of time - or not too long - to bring them to the point of some minor sabotage against the place themselves or at least aiding others to do something there. Paul has some contacts to start with. These guys have been coming to Fr. Martin at the Abbey in Newton for Pentacostal meetings for the last 3 years! Incredible! As I read it, you should see Warren by Friday. We've had almost daily contact with him. And Jogues is now out to lunch with acad who'll take up the Northrop + congressmen thing. That's basically all the news that's not fit to write +, God, B.D.Q.! One thing I will say is that it's far easier to write this than the other way. The letters thru usual channels have been eeked out + are undoubtedly drab + dry as dust. What may seem here to be complete control of a situation, you must remember is part facade. The old man, both in Pauline + my own terms, lives on sometimes with a concreteness that is almost torture. What that says is both good + bad, a mixture I'm sure you're familiar with. Right on!

HE USE AND EFFECTIVENESS OF GROUP THERAPY
IN THE FEDERAL PENAL SYSTEM

An emphasis on relationship seems to have spawned a growing tendency on the part of inmates to spend more personal contact with one another and with staff members. Gratuitous words to provide a thing for supposed acceptance of one another, as well as an opportunity to discuss weighty questions.

The new information about Irving Rockford memories. A week after the confrontation, he called me in (with the Captain there) and the letter which he had examined and practically memorized. It is impossible to express the personal aspects of it without sounding like, as Hugh Hefner would say - "Ew! You got a thing going?" Just like Martin Luther King, Jr." He wanted a confession, and I laughed at him and told him he had no evidence (he hadn't caught the charge with it). Then I picked his mail for a while, and he got suspicious. I told him if he had suspicions about you and me, that he should drop your privileges after I wrote you being full blame for the mess. He said that wouldn't be necessary. He next day he accused the charge telling him he had confessed everything. After that failed, he suspended your privileges and put me under "heat" which followed develop until I had enough on him to get him transferred to Atlanta using and kidnapping as the intervening elapsed. As the cons would say, he is cross-ed in caught him in what he got three flagrant lies. Ironical, you pissed him also and he can't do nothing but hate you for it. Because I'm convinced he got out of line. When anyone plays to lie to and gets him the Rucci rat he has control. Then he will play plantation overseer, maintaining saccharine tolerance. But call his bluff and he acts like a cocky rat. Reader over this, and assumed more & more control of the discussion, silencing what he said made less and less sense. I assumed when I came, that he had given you a rough time to go, but didn't know how bad it was. So a real education - the days at the top Nixon, mitchell et al ate him back like a knight of St. Gregory in Compassion. Well

EXHIBIT "C"

d we'd remember H. B.'s - I was justly proud of you all, and the best
of the afternoon was seeing your glowing faces, and knowing that the
settlements of status you still demand (new par.) We had an in-
teresting talk on Tacitus and Wells. There were elements of gaiety
the thing, but no drama, and no organization. So by and by,
a strike appeal was made and I'll not go this week - next
week or three would be more likely to get a from you via regular channels
in addition to the "hurry" one. Bless you! What can I say? (new par.) I don't
know precisely how to answer #2. I presume you refer to a visitor back here
(for a session with the boss. Unless the new place offers unusual
attractions, I could be partial to that. As I see it, there's no overriding
reason why we should be together longer than a couple of months. Our
approaches to the movement are quite different - Lan is a diplomat propagan-
dist, and does it incomparably well. But I have different views about
priorities
procedures, as you know. Then in #2, you make reference to the "coming
S." As I might have told you before, I would come out only if the movement
is much more than it is now - I mean generally, not our crowd - or if it
became clear that the feds would stick firm with the 6 yr. bit, which
would mean another 3½ mos. From this viewpoint, that would be absurd,
and I'd take my chances on resisting it. You know, if there's no reduction
in the offing, there's a good chance that national legislation will be passed
, the Fall which opts for release of 1st offenders with ½ of sentence
served. We'll hear from one way or another. (new par.) I don't know what
effect Lan's position + mine has had on our people. I would like to think
"had none, which is to say, your + my stance was, is well founded. Will
you permit me a little compliment, Sister? The big difference was tangibly
with your coming in. But you permit another observation? My affinity
for you was not wholly personal - I would have been a fool to ignore
that you had to offer the revolution. Its spirit - you invited on your own
freedom, you had incomparable generosity and you loved the Book
of Jesus. I was all these, and one - mainly had begun at time. And
when this odyssey is over, I will learn from you - that only I want
6 months to do the books, and get my head together in an atmosphere

I have I can get several kinds of education - metaphysical + catholicism. But the Communal thing, + the Eucharist, and the kind of Science that we've been before, and which have taught me much. (New par.) It occurs to me also that you might (in a) to confab with Dan about widening the inner circle. To be frank, I've thought a lot about this since a move to Ordway came on the horizon. And decided against it, that is, selling in alone. It strikes me that we should announce this new development, sacrament together, or not at all. In any event, you can clear up my confusion about #2 when you come to Granberry. I hear that visiting is much more human there, more frequent etc. (New par.) Now we come to #3. Just between you and me, I have never been overmuch impressed by Eg. He's dear friend, very helpful in the last months, lovely guy, good theologue, but still to produce. I think the role of man from Nicosaurus is the safest one with him. (I have this terrible suspicion regarding academics) With few exceptions, the stands will let them go to the cattleman without a serious murmur. They did it in Germany and they're doing it here. And E is from that strain. You see, the delicipient here - strong fellow at least believes in some thing. But here are more reservations - I'd be delighted to be wrong. (New par.) About the plan - the first time opens the door to murder - the Tupamaros are finding that out in Uruguay - I hope you're following them (Last 2 issues of the Guardian). When I refer to murder it is not to prohibit it absolutely (violence against non-violence bag) it is merely to observe that one has set the precedent, and that later on, when general resistance to this sort of things steffens men will be killed. Now to the point, the project as you outlined it is brilliant, just grandiose. I've found, over bitter experience, that certain people opt for too much, they're either stupid or egotistical (another old Eight ball friend Ed Gibbon) which is to say that grabbing the gentleman will take a force of perhaps 10 of your best people - guarding him, getting Communications out, perhaps moving him 2 or 3 times within the week. Now, in addition, to provide a personal bias of liberals would take

does one more, making the total two cuts - if that is possible, how can it be guaranteed that they would collect in any sort of real fashion? Then too, the common notion that it is the catchcut of dishonorable withdrawal from S.E. Asia, and even some of the liberals believe that have to get out that way, i.e. that the economy needs war, and it might well be that we are disinclined, and that we intend to stay. That might mean a Korean type pressure, but then we'd have to hit it up a notch. Or go into the diplomacy of more serious escalation, mining employment at home. This is what should be got Hanoi from K, but can liberals do it? (New par.) Nonetheless, I like the plan and am just going to weave elements of modesty into it. Why not coordinate it with the one against Capitol attitudes - you should talk more thoroughly with Chargé about this, as with Little Shane or Big Joe Norman. To disrupt them, and to grab the Brain Child - this would be escalation enough. (New par.) This moves off the top of my head. Why not grab Mr. Brain Child, treat him courtly, but tell him nothing of his fate - or tell him his fate hinges on release of pol. people or cessation of air strikes in Laos. Then have batteries of movement people - Brain Child blindfolded - engage him on policy. After he has been taught (the consideration of his safety will allow him more and more leeway in his answers) get it filmed and recorded. One thing should be implanted in that fine brain - that respectable murderers like Kennedy are no longer inviolable (this should be done just before release) And that if he doesn't work to encourage policy, the likes of him will be killed by less scrupulous people. Finally, that political prisoners are the best guarantee of his own safety, and that he better get them out of jail. (New par.) Reason along these lines, you have both a material and personal confrontation with the war-makers. The trick to pull off is to hit them easy, very hard without giving them violence to react to, or justify themselves with. (New par.) He can be kept blindfolded, and technicians can wear hooded masks + disguise their voices. It can be done and brilliantly (New par.) I would air Eg on it immediately, but tie it in with the G.C.

nice, and help his imagination unlock regions. Of the understand in our
at people is welcome, and of the right kind - there is a unanimous
resolution - it would mean life. And there is a future to be con-
sidered. (New par.) Broadway and angel cannot survive 3 or 4 more
lacquer rooms. I would imagine that he would have courage in his
s to call for police assistance at the slightest danger. The thing to be
point out is the legals for exchange, or even to check up - if
shades up (New par.) I don't think Eg can bend his own knees on this - he'll
obably need help. But a slip of boy hiders and modesty should be kept on
in. Furthermore, I don't think he'll be the easiest guy to work with. Mind you,
criticism comes with love for the guy, with gratitude for the past
onths, and with a recognition of his intelligence and talent. London is
ul - a few months there - but perhaps they have already been ironed
t. (New par.) Just read your two letters (15th & 16th) over. They're not dull
bout Eng. You come through beautifully, if with restraint. And I get all
sinuendos and delight in them. You're too big for humanity, Chum
Pete,
but you mustn't. You'll have to grow in order to compete. I surrender all the
passages)
s. in question - how you read the manifesto to me - thought that was
ech. You anticipated the comments like King, and with complete justice.
t from that, one event on to even more abstruse questions. Astounding
recovery you made from a detail of a summer in Europe and the views
England. (New par.) Am writing this on the day - the last 'll be a lot of valuable
off. The Post Army will a sensation, but maybe something constructive
ll be striven away. Don't know what to say regarding the Newsday thing -
ought more in the Fall, but he might not. Doesn't seem to
ppeared to be doing a very special work there - but he's a resourceful,
possibilities type. Chuck says that Conde' Nast have gotten to him
i awhile. Don't suppose you'll have your difficulty handling Newsday on
inviting terms, but if you do, manage together and one. For that
atter, you can't escape each other. (New par.) Incidentally, that the
ay the Old Man lives with you, in contrast to the previous that
ckie Wellington recommends is a good thing. I would say that you've made
an unusual, if not the wisest, and time you've committed. Re
self-sacrifice, thing of good from Abe and from the Lord.

FD-36 (Rev. 5-22-64)

FBI

Date: 4/5/73.

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL _____ (Priority)

TO: ACTING DIRECTOR, FBI
(ATTN: OFFICE OF LEGAL COUNSEL)

FROM: SAC, PHILADELPHIA (62-5420)

SUBJECT: SISTER ELIZABETH MC ALISTER;
WILLIAM DAVIDSON versus
RICHARD G. KLEINDIENST;
ET AL
MISCELLANEOUS - INFORMATION
CONCERNING CIVIL ACTION
72-1977 EDPA.
PHFILE #62-5421
BUFILE 62-115389

KEITH TORSYTH versus
RICHARD G. KLEINDIENST;
ET AL
MISCELLANEOUS - INFORMATION
CONCERNING CIVIL ACTION
72-1920 EDPA
PHFILE #62-5420
BUFILE 62-94527

EX-105

REC-54 62-115387-

APR 12 1973

Re Philadelphia airtels 3/23/73 and 4/2/73 regarding the DAVIDSON case.

LEGAL COUNSEL

On 3/30/73, [redacted], Bell Telephone of Pennsylvania, Philadelphia, Pa., telephonically advised that a subpoena was served on him that morning by one [redacted], an assistant for Attorneys [redacted] and [redacted], 1427 Walnut Street, Philadelphia, Pa. The subpoena orders [redacted] to produce telephone toll call

b6
b7C

cc Baker

2 - Bureau
3 - Philadelphia (1-62-5420)
(1-62-5421)
(1-100-49746) ([redacted]) (For info)

RCH:jer
(5)

XEROX

APR 25 1973

APR 30 1973

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

*U.S.Government Printing Office: 1972 — 455-574

UNRECORDED COPY FILED IN 62-115389-

records for WILLIAM DAVIDSON at telephone 215-MI9-6154, for the period 11/24/70 through 1/6/71.

[redacted] stated that records pertaining to those dates have been destroyed and are not available, but that he located records for June through November, 1970, for DAVIDSON. b6 b7C

In addition, [redacted] is to appear in [redacted]'s office at 10:00 A.M. on 4/11/73 for disposition. b6 b7C

It is noted that [redacted] is the representative of Bell Telephone Company to whom all subpoenas are directed for toll records by the Philadelphia FBI Office. b6 b7C

On 4/2/73, SA [redacted] furnished the foregoing to AUSA [redacted] for his information in handling the DAVIDSON case. At that time, [redacted] had not received a copy of the subpoena, but subsequently advised on the same date that he and Departmental Attorney [redacted] have been served, and that a copy of the subpoena had been forwarded to the Philadelphia FBI Office. b6 b7C

[redacted] advised he has no interest at this time in obtaining a subpoena for toll calls from DAVIDSON's phone made prior to November, 1970, since they appear to bear no relevance to the DAVIDSON case. He theorized that the purpose of plaintiff's subpoena is to establish that the calls made were those intercepted during the FBI's national security electronic surveillance. b6 b7C

SA [redacted] also contacted AUSA [redacted], who handles the FORSYTH case locally. The factual bases of the FORSYTH and DAVIDSON cases are basically the same, and it is felt that any information gained by plaintiffss as a result of [redacted]'s subpoena in the DAVIDSON suit might also be pertinent in FORSYTH. [redacted] advised he contemplates no direct action as a result of [redacted]'s subpoena, and was assured he would be kept current on pertinent developments. b6 b7C

For information, indices of the Philadelphia Office reflect a reference for one [redacted] who was arrested during an anti-draft demonstration at [redacted] on [redacted], and charged with Breach of Peace, Disorderly Conduct, and Resisting Arrest. b6 b7C

Assistant Attorney General
Criminal Division

April 24, 1973

Acting Director, FBI 62-115389-12

1 - Mr. Miller
1 - Mr. Mintz
1 - Mr. Williamson

REC-24

SISTER ELIZABETH McALISTER, et al. v.
RICHARD G. KLEINDIENST, et al.
(E. D. PA.) CIVIL ACTION NO. 72-1977

This will serve to make a matter of record the information furnished to [redacted] of your division on April 12, 1973, by Special Agent James L. Williamson of our Office of Legal Counsel. [redacted] was advised, in answer to his earlier inquiry, that our Philadelphia Office has copies of the toll call records for telephone number MI9-6154, subscribed to by plaintiff Davidon, for the period November 14, 1970, through June 13, 1971. Copies of these records were obtained from [redacted] of the Bell Telephone Company, Philadelphia, in response to a subpoena duces tecum.

b6
b7C

NOTE: Based on Philadelphia airtel, captioned as above, dated 4/13/73.

JLW:dēh
(7)

Mr. Felt
Mr. Baker
Mr. Callahan
Mr. Cleveland
Mr. Conrad
Mr. Gebhardt
Mr. Jenkins
Mr. Marshall
Mr. Miller, E.S.
Mr. Soyars
Mr. Thompson
Mr. Walters
Tele. Room
Mr. Kinley
Mr. Armstrong
Mr. Bowers
Mr. Herington
Mr. Herwig
Mr. Mintz
Mr. Neenan

MAIL ROOM ☐ TELETYPE UNIT ☐

FD-36 (Rev. 5-22-64)

FBI

Date: 4/13/73

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL REGISTERED MAIL (Priority)

TO: ACTING DIRECTOR, FBI
(ATTENTION: OFFICE OF LEGAL COUNSEL)

FROM: SAC, PHILADELPHIA (62-5421)(P)

SISTER ELIZABETH MC ALISTER, etal
vs. RICHARD G. KLEINDIENST, etal
EDPA, CIVIL ACTION #72-1977

Rebuairtel dated 4/10/73 and Philadelphia phone call to Bureau 4/12/73.

Review of Philadelphia file 100-38658 (WILLIAM C. DAVIDON) reflects Xerox copies of toll call records for telephone number 215 MI 9-6154 (DAVIDON, subscriber), for the period 11/14/70 through 6/13/71.

Copies of the records were obtained by subpoena duces tecum served on [redacted] of Bell Telephone Co., Philadelphia, Pa. Philadelphia is not in possession of originals. b6 b7C

cc 5642

(3) - Bureau RM)
1 - Philadelphia

RCH:EAC/vfh
(4)

Ltr to AAG Criminal Div
dtd 4/24/73

REC-24 62-115389-12

EX-101 7 APR 16 1973

LEGAL COUNSEL

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

U. S. GOVERNMENT PRINTING OFFICE: 1971—413—135

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : ACTING DIRECTOR, FBI
ATTN: OFFICE OF LEGAL COUNSEL

DATE: 6/6/73

FROM : SAC, PHILADELPHIA (62-5421) (P)

SUBJECT: SISTER ELIZABETH MC ALISTER, ET AL
v. RICHARD G. KLEINDIENST, ET AL
CIVIL ACTION NO. 72-1977
U.S.D.C., E.D.PA.

For the information of the Office of Legal Counsel, AUSA [redacted] advised on 6/6/73 that a pre-trial conference in captioned matter is scheduled before U. S. District Court Judge RICHARD A. POWERS, E.D.PA., on 6/14/73. [redacted] was unable to furnish details such as the names of parties who will be present at the conference, but advised he will keep in touch with this office regarding subject matters discussed and results.

b6
b7C

[redacted] further advised that he will be in touch with [redacted] at the Department concerning this matter.

b6
b7C

Philadelphia will keep the Bureau advised.

3 - Bureau
1 - Philadelphia

RCH:etc
(4)

REC-90

62-115389-13

JUN 7 1973

JUN 14 1973

LEGAL COUNSEL

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

5010-108-02

Assistant Attorney General
Criminal Division

June 18, 1973

REC-69 62-115389-14

Acting Director, FBI

EX-103

1 - Mr. Miller
1 - Mr. Mintz
1 - Mr. Williamson

SISTER ELIZABETH McALISTER, et al. v.
RICHARD G. KLEINDIENST, et al.
(E.D. PA.) CIVIL ACTION NO. 72-1977

Enclosed for your information is a transcript of the deposition of [redacted], Bell Telephone Company of Pennsylvania, taken in connection with captioned matter.

b6
b7C

Enclosure

NOTE: Philadelphia memorandum dated 6/8/73, captioned as above, enclosed transcript of deposition testimony of telephone company employee concerning toll call records of plaintiff William Davidon. (Bufile 62-115389)

JLW:deh
(6)

MAILED 4
JUN 18 1973
FBI

Mr. Felt
Mr. Baker
Mr. Callahan
Mr. Cleveland
Mr. Conrad
Mr. Gebhardt
Mr. Jenkins
Mr. Marshall
Mr. Miller, E.S.
Mr. Soyars
Mr. Thompson
Mr. Walters
Tele. Room
Mr. Baise
Mr. Barnes
Mr. Bowers
Mr. Herington
Mr. Conmy
Mr. Mintz
Mr. Eardley
Mrs. Hogan

MAIL ROOM ☑ TELETYPE UNIT ☐

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Acting Director, FBI
ATTN: Office of Legal Counsel

DATE: 6/8/73

FROM : SAC, Philadelphia (62-5421) -P-

SUBJECT: SISTER ELIZABETH MC ALISTER,
ET AL,
VS.
RICHARD G. KLEINDIENST,
ET AL
CIVIL ACTION No. 72-1977
USDC, EDPa.

EX-PROC

Re Philadelphia airtel to Bureau dated 4/13/73.

Enclosed herewith for the information of the Office of Legal Counsel is one copy of the notes of testimony of the deposition of [redacted], Bell Telephone of Pennsylvania, taken in Philadelphia, Pa., 4/13/73. b6 b7C

AUSA [redacted], EDPa., who made the notes available, advised he intends to review them regarding their significance in this case. Philadelphia will maintain contact with AUSA [redacted] and keep the Office of Legal Counsel advised. b6 b7C

REC-69 62-115389-14

2 - Bureau (Encl. 1) ENCLOSURE
1 - Philadelphia (62-5421)

EX-103

RCH:cmk
(3)

9 JUN 19 1973

"ENCLOSURE ATTACHED"

Ltr to AAG, Criminal Div dtd 6/18/73 Glew:dcb

LEGAL COUNSEL

W. K. Johnson

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

5010-108-02

ENCLOSURE to BU, Attn: Office of Legal Counsel FROM: PHILADELPHIA

Re: SISTER ELIZABETH MC ALISTER, ET AL, Vs. RICHARD G. KLEINDIENST, ET AL, CIVIL ACTION NO. 72-1977, USDC, EDPa.

Contents: One copy of the notes of testimony of the disposition of [redacted] b6 b7C Bell Telephone Co. of Pennsylvania taken in Philadelphia on 4/13/73.

Philadelphia File # 62-5421

Bureau File # Letter dated 6/8/73

62-115349-14

ENCLOSURE

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SISTER ELIZABETH McALISTER and WILLIAM DAVIDON	:	CIVIL ACTION
vs	:	
RICHARD G. KLEINDIENST, et al.	:	NO. 72-1977

Philadelphia, Pennsylvania

April 17, 1973

Oral Deposition of [redacted] b6 b7C

[redacted] b6 b7C

Court Reporter
3051 United States District Court
Philadelphia, Pa. 19107
WA 5-9480

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SISTER ELIZABETH McALISTER and WILLIAM DAVIDON	:	CIVIL ACTION
vs	:	
RICHARD G. KLEINDIENST, et al.	:	NO. 72-1977

Oral deposition of [redacted], taken on behalf of the Plaintiff, at the offices of Segal, Appel and Natali, 1427 Walnut Street, Suite 200, Philadelphia, Pennsylvania, on Tuesday, April 17, 1973, before [redacted], Court Reporter, beginning at 10:20 o'clock A.M.

b6
b7C

PRESENT:

SEGAL, APPEL & NATALI
BY: Jack Levine, Esq.,
Appearing for the Plaintiffs

CARMEN C. NASUTI, ESQ.,
4042 U. S. Court House
Appearing for the Defendants

William Davidon

(It is stipulated by and among counsel for the respective parties, that signing, certification, sealing, and filing are waived, and that all objections, except to the form of the questions, are reserved to the time of the trial.)

[redacted], having been duly sworn, was examined and testified as follows: b6 b7C

BY MR. LEVINE:

Q [redacted], could you identify yourself, including your full name and place of business? b6 b7C

A My name is [redacted]. I am employed by Bell of Pennsylvania, One Parkway, Philadelphia. I am a senior Security Agent. I am in charge of the Liaison Section of the Controller's Department.

Q Could you explain very briefly what your duties entail as they may relate to furnishing records, and other records similar to what you have been called upon to produce here.

A My primary responsibility is to receive subpoenas, summonses, research the records that are requested, correlate these records, and deliver them into the hands of the proper authorities, or to appear on behalf of the companies to testify from these records as a representative of the company.

Q You received a subpoena, did you not, with regard to the telephone records of Mr. William Davidon?

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b7C

A I did.

Q And that subpoena requested the toll receipts of calls made from his residence, or billed to his residence, during a set period in the years 1970 -- December, 1970, and January, 1971; is that correct?

A November, 1970.

Q I am sorry, November, 1970 and January, 1971; and in response to that subpoena, what actions did you undertake?

A I made a search of the office where this bill would normally be stored, keeping in mind the fact that these records are over two years old, and are not normally kept in the local office. The standard procedure is to either store these records after a six-month period, or destroy them.

In this case, they were destroyed; however, I was able to locate a portion of the records.

Q What portion of the records were you unable to locate?

A Well, I will tell you what I was able to locate. That would be easier.

Q Okay.

A I honestly don't believe that I was able to locate any of the portion of the period you would be interested in, with the exception of -- yes, I was. I have the bill for January 14th, 1971; for 11-14, that would be November the 14th, 1970, and subsequent to that, which would be the 9th, 8th, 7th, 6th, and 5th months of 1970.

Q May I examine them, and have them marked, what you brought with you?

A Here is the January, 1971, and these are the 11th month on back, 1970.

(Discussion off the record.)

WITNESS: I really can't turn those records over to you prior to November because they aren't on subpoena. You only asked for November of 1970, and the only ones I can actually submit at this time are the January records.

BY MR. LEVINE:

Q Okay. The subpoena was for the records starting as of November --

A 24th.

Q November 24th, and I have been handed by [redacted] eight xerox copies of the toll receipts, or toll phone bill records, and, if I am not mistaken, just one of these would be for the period covered by the subpoena? b6 b7C

A Right.

Q And the others are for a period before that.

(Discussion off the record.)

MR. LEVINE: [redacted], let me refer to the document which covers the toll receipt of the period in question--not the total period, but a part of the period, and I would like, if I may, to have this marked for identification purposes. b6 b7C

 b6 b7C

(Phone Record of William C. Davidon for January 14, 1971 marked by the reporter as exhibit P-1 for identification.)

BY MR. LEVINE:

Q [redacted], just one or two more questions. b6 b7C

Do you know the name of the particular individual who actually retrieved this document, now marked for identification P-1, from the Telephone Company files?

A No, I have no idea.

Q In any event, if I understand you correctly, you directed that someone retrieve whatever records were available?

A There was probably a number of people involved in this, and just who would be the person that actually snatched them from the file--

Q Who was it, if you recall, that reported to you that the toll receipts for the period not covered by P-1 were not in existence?

A Well, normally they are not. This is an abnormal condition that this exists. We generally inquire anyhow because these accidents do happen, and this was a fortunate thing that these were available, so I can't say that anybody said that they weren't. I would say that we had a positive reaction when we asked for certain records, and that is what we came up with, and that was all that they had, and that

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would be a roundabout way of answering your question, I guess.

Q In addition to the document marked P-1, there were also other records which covered the period not included on the subpoena itself?

A That's right. I asked for all records prior to 1972 on this account, and this is what I received.

Q Very briefly, are you familiar with the way in which these toll receipts are actually recorded?

A Yes.

Q Can you describe very briefly how it is that these records come to be made?

A May I see it?

Q Sure.

A This is a company copy of the bill that is submitted to the customer. This particular copy the company retains has a little more information than the one the customer receives insofar as it shows the time or serial numbers of various toll tickets if such are made up at the time of the call. Other than that, they're identical.

They show the base amount of the service, the tax, the amount of the toll calls, the amount of message units, and any balance left over from the previous month, and there are various codes in here that indicate the dates that these bills are to be sent out, the dates that they're to be recorded, the number of times the customer's been contacted

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b7C

because he hasn't paid his bill, and all sorts of things of that type.

Q The toll receipt which you have given me only covers what might be called long distance calls; is that correct?

A It would be any call made outside of the calling area, or that area that is covered by the message unit system whereby you might call an office some distance, but instead of being charged a toll, you are charged X number of message units; one, two, or three. It's an area system.

Q Is there any method, or practice, by which local calls, which is to say calls that are not recorded on sheets of this kind, are recorded?

A No.

Q So that there would be no way of determining the number or nature of telephone calls that are made within, say the Philadelphia area during a given period?

A Well, there are a number of them, but not the location. It says on here the message units are 50, and the billed message units are 150. There are 50 in excess. This gentlemen has extended rate service, which allows him X number of message units for the rate. If he exceeds that, he has to pay extra for it.

Q Is there any recordation made of the numbers to which those calls were made if they are inside the Philadelphia Metropolitan Area?

A No, none at all.

Q How is it that the message units for calls made in that area are actually determined?

A The meter on the system. Everytime the connection is made, the switch operates a meter and it turns over one.

Q But there is no device on there for the purpose of determining the number that was called?

A No.

Q [redacted], is there any procedure with which you are familiar with whereby records are kept by the phone company of telephone calls made to or from installations that may be the subject of a surveillance device, either Court ordered, or otherwise? b6 b7C

A I don't quite get what you are trying to find out. Do we have a record of calls that are made as a result of surveillances? Is that what you are saying?

Q That would be one aspect of it, yes.

A We don't keep any records of anything.

Q Does the phone company maintain any other procedures whatsoever for the purpose of maintaining records of phones which may be the subject of surveillance, Court ordered or otherwise?

A If we receive a Court order for a surveillance, all that does is tell us that we have to permit it. We have nothing to do with the surveillance whatsoever.

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b7C

Q And the procedures that you normally use for the purpose of maintaining toll receipts, such as the one that has been delivered here, are the same procedures that would be used regardless of whether or not the phone was being surveyed or not surveyed?

A Oh, yes. That's a standard operation. It's automatic.

Q Does the phone company have particular personnel who are responsible for the liaison or other work involving Court ordered or other wire taps?

In other words, people in the phone company who are responsible for communicating with, and coordinating, and permitting, or arranging for the maintenance of Court ordered surveillance or other surveillance?

A I know of no one particular person. I don't handle it. It isn't handled in our department and I honestly couldn't tell you of any one particular person that might handle it.

I think it's handled in the normal course of the business by our staff people; whoever happens to be assigned to it at the time. It's really not a big thing as far as we are concerned.

Q So that if the phone toll receipts that are recorded on the document that has been marked P-1 were for a period in which there was a Court ordered or other phone tap, you would have no way of knowing from looking at this document that such a tap was in effect?

A No way at all.

 b6 b7C

Q And you don't know the particular person who would be responsible for whatever housekeeping or other details which are attended to on that kind of surveillance?

A No.

Q In other words, someone who the appropriate government officials would contact for permission to install the device, or would maintain communications with for the purpose of making sure it wasn't removed, or anything else?

A I have no idea how that is handled. That is entirely separate from our area.

(Discussion off the record.)

BY MR. LEVINE:

Q [redacted], in response to the subpoena, these records were all the records for the years prior to 1972 that you brought with you? b6 b7C

A Yes.

Q [redacted], you stated earlier that you brought with you in response to the subpoena all telephone records that you were able to retrieve for Mr. Davidon for the years prior to 1972, which is to say prior to January 1, 1972. b6 b7C

Those records included, if I am not mistaken, the document that has already been marked P-1 for identification purposes, and seven copies of toll receipts from the phone company bearing the dates--or I should say starting with, I believe, April or May of 1970, and running through the period to which the original subpoena was addressed; is that correct?

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b7C

A I can answer it better if I have this (indicating).

Q I am sorry. Those are a little confusing.

A These records include the bills commencing with the May 14th, 1970 bill of MI 9-6154 to, and including, the 11-14-70 bill for the same telephone number.

Q I thank you for bringing those with you, and let me state that while you have been here I prepared a subpoena which, in effect, requests the toll receipts showing calls placed from the phone, or billed to the phone of William Davidon, Seven College Lane, Haverford, Pa., telephone number MI 9-6154, prior to the year 1972, and, if I am not misteken, that subpoena would cover the records which you brought with you.

A You are saying anything prior to 1972?

Q Yes.

A All available records. Make it available records because you are not going to get any more. I don't know which gentleman established service in 1967. We don't have them back that far.

Q Whatever you have, you br ught with you?

A Anything that was available.

Q When you say "anything that was available," you directed that whatever records you had --

A I directed that they give me anything that they had prior to 1972, and this is what they gave me, and that's what you got.

Q Let me just hand you the subpoena which is necessary for this purpose under Section 605 of the Federal Communications Act.

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MR. LEVINE: I have stapled together the seven documents which were just referred to, and I would ask that they be marked for identification purposes P-2, and initialled by the stenographer to be sure that they can become a part of the record.

(The above described documents initialled and marked P-2 for identification by the reporter.

BY MR. LEVINE:

Q [redacted], I note that the document that has been marked P-1 is stamped at the bottom "Headquarters, Security-Liaison, January 25, 1971 Received."

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b7C

Do you see that stamp? Was that stamp placed on that document when it came it came into your office?

A I would say it must have been, yes.

Q Are you attached to the Security-Liaison Division?

A Right.

Q What is the significance of the word "Security" as it appears on this particular document?

A Well, that's the department. That's my department.

Q This was marked "1971." Do you know why this Security-Liaison date would have been marked on there at that time?

A Only because it must have been in our hands at that time, and sent back. I have no other explanation for it because everything that comes into our office we stamp.

Q When you say placed in your hands at that time and sent back, sent back by who?

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b7C

A Well, sent back by my office.

Q From where?

A From my office.

Q Is the official designation of your office Security-Liaison?

A That's right, yes. This must have been ordered up, not needed, not used, and sent back to the office from which it originated.

Q Which office would it have originated from?

A At Ardmore.

Q Your office?

A No, no. Ardmore is the original point where these things are kept. They first come to the Accounting Department, then go on to Ardmore for distribution to the customer.

Q Correct me if I am wrong, because I may well be. I understand you to be saying that this stamp would appear on that particular record because it was ordered up by your office from Ardmore?

A Correct.

Q And that in the normal course of business at some time after the time stamped on here, it would be returned to the office from which it was ordered?

A It starts in our office. I get subpoenas, we log them, and so forth, then their turned over to the Clerk, and the Clerk orders the records that are necessary, and it must have been a subpoena come in at one time requesting this information

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b7C

and this was sent, and it wasn't needed, and it was sent back.

How about the others? Do the others have the same stamp on them?

Q No, the others don't have any stamp on them at all.

So in other words, that stamp on that particular document would indicate that probably on or about January 25, 1971, this document was given to your office in response to some kind of request from the outside for such records?

A We obviously ordered it from Ardmore where it would have been kept for six months after it's been issued. We obviously ordered it from Ardmore to satisfy a subpoena, or something of that sort.

I am sorry, sir, but I can't recall what happened back in -- what's the date on that, 1971? I have a lot of work pass through my hands.

This was ordered up, and not used, and sent back. That's all I can tell you right now. If it's on there, it had to go through my office at that time.

Q One further question. Would all of the records that you brought with you have been retrieved from Ardmore, or would they be in your facility at Center City?

A These I brought here?

Q Yes.

A They came from Ardmore. I assume so, now. I can't even say for sure about that. I'd have to check back with my Clerk to

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b7C

find out where she had to order them from. They must have been in Dead Storage. I don't know exactly. I wouldn't want to swear to where they come from.

Q In any event, the records wouldn't originate in your office, they would originate at whatever location or regional branch office that was responding for servicing the particular phone in question?

A Right, the regional office, or the Accounting office, or the Dead Storage office. It could have been one of the last two places.

Q [redacted], would you have any records which would indicate who it was that requested this particular document, P-1, in January of 1971?

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b7C

A Well, all I could do would be to see if we had any subpoenas come through our office at that time.

Q If there had been such subpoenas, there would be a record made of them?

A There should be a record.

Q And that would not necessarily have been something that you were directly involved in?

A Such as?

(Discussion off the record.)

BY MR. LEVINE:

Q Could there ever have been a request other than a subpoena?

A We wouldn't get records for anybody without a subpoena.

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The only possibility would be a special thing if they didn't pay the bill, or something like that, and it was a case where we had to go and try to get the customer to pay. We have had that on occasion, but this is not the case here.

MR. LEVINE: I can't think of anything else.

MR. NASUTI: I have no questions.

(Adjourned at 11:10 A.M.)

FD-36 (Rev. 5-22-64)

FBI

Date: 6/28/73

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL _____ (Priority)

TO: ACTING DIRECTOR, FBI
ATTENTION: OFFICE OF LEGAL COUNSEL

FROM: SAC, PHILADELPHIA (62-5421)(P)

SUBJECT: SISTER ELIZABETH MC ALISTER, ETAL
V. RICHARD G. KLEINDIENST, ETAL
CIVIL ACTION NO. 72-1977
USDC, EDPA

Re Philadelphia airtel to Bureau, 6/6/73.

AUSA [redacted], Philadelphia, advised that due to a death in the family of U. S. District Court Judge RICHARD A. POWERS, the pre-trial conference in captioned matter, originally scheduled for 6/14/73, has been postponed to 6/29/73. b6 b7C

[redacted] advised he will not personally appear at the pre-trial, and that Departmental Attorney [redacted] will be present to represent defendants. [redacted] will determine the outcome of the pre-trial and advise Philadelphia. b6 b7C

Philadelphia will keep the Bureau informed of pertinent developments.

ST-105

REC-59 62-115389-15

(3) Bureau
1-Philadelphia (62-5421)

RCH:btp
(4)

54 JUL 11 1973

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

U.S.Government Printing Office: 1972 — 455-574

FD-36 (Rev. 5-22-64)

FBI

Date: 7/13/73

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL _____ (Priority)

TO: DIRECTOR, FBI
(ATTN: OFFICE OF LEGAL COUNSEL)

FROM: SAC, PHILADELPHIA (62-5421) (P)

SUBJECT: SISTER ELIZABETH MC ALISTER, ET AL v.
RICHARD G. KLEINDIENST, ET AL
CIVIL ACTION NO. 72-1977
U.S.D.C., E.D.PA.

Re Philadelphia airtel to Bureau, 6/28/73.

On 7/10/73, AUSA [redacted], Philadelphia, Pa., made available a copy of plaintiff's Reply to Request for Admissions and Certificate of Service, dated 6/21/73, filed in response to defendant's Request for Admissions of 2/1/73. b6 b7C

One copy each of the reply and certificate are enclosed for the Office of Legal Counsel.

Regarding the pretrial conference in captioned matter held 6/29/73 before U.S. D. Judge POWERS per re airtel, AUSA [redacted] advised that the following are the major points mutually agreed upon by the parties: b6 b7C

1. All discovery in this case is to be closed on 10/15/73.

EX-109 REC-12 62-115389-16

2. Should plaintiffs decide to file a motion compelling discovery beyond that covered to 6/29/73, such motion must be filed no later than 8/1/73.

3. Any interrogatories filed by plaintiffs subsequent to the conference must be filed no later than 8/8/73.

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION
JUL 13 1973
ENCLOSURE TRANSMITTED

cc 5642 ENCLOSURE ATTACHED

(3) - Bureau (Encs. 2)
1 - Philadelphia (62-5421)

JUL 16 1973

RCH:jer
(4)

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

53 JUL 26 1973

*U.S.Government Printing Office: 1972 — 455-574

PH 62-5421

4. By 7/23/73, plaintiffs will submit to defendants, in writing, the theory of their case against defendants.

5. Another pretrial conference in this matter is scheduled for 8/15/73.

Inasmuch as AUSA [redacted] was not present at the 6/29/73 conference, he could furnish no additional information concerning matters arising thereat. b6 b7C

Office of Legal Counsel will be kept advised.

7/18/73 [redacted] Criminal Division, advised he represented the Govt at the 6/29/73 pretrial conference and so is aware of what transpired. Consequently, kept not being advised by Office of Legal Counsel.

ENCLOSURE To Bureau FROM PHILADELPHIA

Re: SISTER ELIZABETH MC ALISTER, ET AL v.
RICHARD G. KLEINDIENST, ET AL CIVIL ACTION
#72-1977, USDC, EDPA.

Enc: One copy of Reply to Request for Admissions
One Certificate of Service

Bufile:

PHILA: 62-5421

Airtel dated 7/13/73

OK

62-115389-16

ENCLOSURE

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SISTER ELIZABETH McALISTER, et al.,	:	
Plaintiffs,	:	Civil Action
v.	:	No. 72-1977
RICHARD G. KLEINDIENST, et al.,	:	
Defendants.	:	

CERTIFICATE OF SERVICE

I hereby certify that on this date I served the foregoing Answer to Request for Admissions upon all parties by serving a copy thereof, by United States Mail, postage prepaid, upon the following counsel of record: Edward S. Christenberry, Attorney, Department of Justice, Washington, D.C. 20530.

William J. Bender

WILLIAM J. BENDER, ESQ.
c/o Constitutional Litigation Clinic
103 Washington Street
Newark, New Jersey 07102

Dated: June 21, 1973

of plaintiffs' telephone conversations. It is inconceivable that the genuineness of the specified documents can have any bearing upon damages, the fact of the surveillance itself, or upon the existence of a warrant. In addition, it has not been shown nor suggested, nor is there apparent, any possible admissible evidence to which the authentication of these documents might lead. The documents were at issue in plaintiffs' criminal prosecution in United States v. Ahmad, 347 F. Supp. 912 (1972), but do not relate to the present civil case in any apparent way.

Requested admissions seven and eight seek information regarding the alleged interstate travel and meetings of plaintiffs. Plaintiffs decline to answer citing the same objections given in the above paragraph.

The only action before the Court is plaintiffs' complaint under 18 U.S.C.A. 2520, nowhere in which is any act or occurrence of an interstate nature mentioned. Plaintiffs' meetings and travels are not at issue under the statute. Plaintiffs further object that defendants do not in good faith seek discovery leading to evidence admissible in the present civil action, but instead seek to discover data to be used against plaintiffs criminally.

Plaintiffs furthermore decline to admit or deny requested admissions one through nine on the grounds that such answers might conceivably subject plaintiffs to renewed investigation and possibly criminal prosecution in derrogation of plaintiffs' Fifth Amendment right not to be forced to accuse themselves or bear witness against themselves.

Respectfully submitted,

William J. Bender

William J. Bender, Esq.
c/o Constitutional Litigation Clinic
103 Washington Street
Newark, New Jersey 07102

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SISTER ELIZABETH McALISTER, et al., Plaintiffs,	:	Civil Action
v.	:	No. 72-1977
RICHARD G. KLEINDIENST, et al., Defendants.	:	

REPLY TO REQUEST FOR ADMISSIONS

Having received defendants' Request for Admissions of February 1, 1973, plaintiffs make this answer pursuant to F.R.C.P. 36 and 26(b)(1).

Plaintiffs respectfully decline to admit or deny requested admissions numbered one through nine, stating herein their objections pursuant to F.R.C.P. 36.

Requested admissions 1, 2, 3, 4, 5, 6 and 9 all seek information regarding the authenticity, transmission, and receipt of certain documents. This data is outside the permissible scope of discovery in that: 1) it is irrelevant to the subject matter of the action pending, and 2) it is not "reasonably calculated to lead to the discovery of admissible evidence," pursuant to F.R.C.P. 26(b)(1).

The present civil action is brought under 18 U.S.C.A. 2520 for damages sustained through defendants' illegal wiretapping

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DEPARTMENT OF JUSTICE
2 JUN 25 1973
INTERNAL SECURITY
Criminal Section

72-1977-29

EX-109

Assistant Attorney General
Criminal Division

REC-70 62-115389-17

Director, FBI

August 17, 1973

1 - Mr. Miller
1 - Mr. Mintz
1 - Mr. Williamson

FILE UNIT

SISTER ELIZABETH McALISTER, et al. v. RICHARD G. KLEINDIENST, et al. (E. D. PA.) CIVIL ACTION NO. 72-1977

Our Philadelphia Office advised plaintiffs' counsel has moved to dissolve the May 1, 1972, order entered in the criminal case of United States v. Eqbal Ahmad, et al., No. 14950, Middle District of Pennsylvania. Plaintiffs in captioned matter were defendants in that criminal action and the order was based on the stipulation of the parties that the contents of, or information contained in, any tapes or transcripts of electronic surveillance overhearings should not be disclosed other than to defense counsel of record or defendants Philip Berrigan and Elizabeth McAlister.

According to Assistant United States Attorney [redacted] Harrisburg, Pennsylvania, if plaintiffs are successful in their motion the captioned civil action will proceed. [redacted] advised he would oppose the motion which has been set for hearing at Harrisburg on September 11, 1973.

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We would appreciate any assistance you can give [redacted] in this matter.

NOTE: Based on Philadelphia teletype dated 8/10/73, captioned "William Davidon and Sister Elizabeth McAlister vs. Richard G. Kleindienst, et al (Civil Action 72-1977). Bufile 62-115389.

JLW:deh
(6)

MAILED 3
AUG 17 1973
FBI

Assoc. Dir.
Asst. Dir.:
Admin.
Comp. Syst.
Files & Com.
Gen. Inv.
Ident.
Inspection
Intell.
Laboratory
Plan. & Eval.
Spec. Inv.
Training
Legal Coun.
Cong. Serv.
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FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS SECTION

AUG 10 1973

TELETYPE

NR008 PH CODE

620 PM NITEL 8/10/73 DCC

TO DIRECTOR (ATTN OFFICE OF LEGAL COUNCIL AND
INTELLIGENCE DIVISION)

FROM PHILADELPHIA (62-5421)

WILLIAM DAVIDON AND SISTER ELIZABETH MC ALISTER VS. RICHARD G. KLEINDIENST, ET AL (CIVIL ACTION 72-1977)

ON 8/10/73, AUSA [redacted], HARRISBURG, PA., MDPA, ADVISED THAT ON 8/8/73, ATTORNEY [redacted] REQUESTED JUDGE R. DIXON HERMAN, MDPA, TO DISSOLVE A PROTECTIVE ORDER ENTERED DURING THE BERRIGAN CASE ON 5/1/72. THE ORDER PROHIBITED DEFENSE COUNCIL FROM REVEALING THE SUBJECT OF AN ELECTRONIC SURVEILLANCE IN PHILADELPHIA, OVER WHICH ELIZABETH MC ALISTER WAS OVERHEARD. AUSA [redacted] STATED THAT THE PURPOSE OF THE MOTION BY [redacted] WOULD BE TO ALLOW A CIVIL LAW SUIT, FILED BY WILLIAM COOPER DAVIDON AND ELIZABETH MC ALISTER IN PHILA., TO CONTINUE. [redacted] WILL OPPOSE THE MOTION AT A HEARING WHICH IS TO BE HELD IN HARRISBURG, PA., ON 9/11/73, BEFORE JUDGE HERMAN.

END

GWS WSH DC

ACK CR CLR

EX-109

REC-70 62-113387-17

AUG 22 1973

b6
b7C

Memo to AAG Criminal Div dtd 8/17/73 JLW:dch

LEGAL COUNSEL

cc: Mr. Miller

Assoc. Dir.	
Asst. Dir.:	
Admin.	
Comp. Syst.	
Files & Com.	
Gen. Inv.	
Ident.	
Inspection	
Intell.	
Laboratory	
Plan. & Eval.	
Spec. Inv.	
Training	
Legal Coun.	
Cong. Serv.	
Corr. & Crm. Research	
Press Off.	
Telephone Rm.	
Director Sec'y	

FD-36 (Rev. 5-22-64)

FBI

Date: 8/21/73

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL _____ (Priority)

TO: DIRECTOR, FBI
(ATTENTION: OFFICE OF LEGAL COUNSEL)

FROM: SAC, PHILADELPHIA (62-5421) (P)

SUBJECT: SISTER ELIZABETH MC ALISTER, ET AL
v. RICHARD G. KLEINDIENST, ET AL
CIVIL ACTION NO. 72-1997
EDPa.

Re Philadelphia nitel to Bureau dated 8/10/73, and Philadelphia airtel to Bureau dated 7/13/73.

Enclosed for the Office of Legal Counsel is one copy each of the following pleadings:

1. Plaintiff's Motion to Compel Answer to Complaint, filed in Philadelphia on 8/1/73;

2. Defendant's Opposition to Motion to Compel Answer to Complaint, filed 8/15/73;

3. Plaintiff's Motion to Vacate the Protective Order of May 1, 1972, together with supporting Memorandum, both filed in the Middle District of Pennsylvania at Harrisburg, Pa., 8/10/73;

4. Plaintiff's First Interrogatories to Defendants, filed 8/16/73; and

5. Motion to Require Plaintiff MC ALISTER to Answer Defendants' Request for Admissions, together with the Government's supporting Memorandum, the originals of which will be filed in Philadelphia on 8/27/73.

REC-36 62-115381-18
EX-104

I copy inc + ltr and memo forwarded 9/28/73 JMK

(3) Bureau (Enc. 7) (RM)
1- Philadelphia (62-5421)

ENCLOSURE

6 AUG 24 1973

LEGAL COUNSEL

RCH:sdc
SEP 27 1973
176

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

U.S.Government Printing Office: 1972 — 455-574

The foregoing copies were furnished by AUSA [redacted] on [redacted] on 8/20/73. b6 b7C

It is noted that #3 above pertains to a protective order entered by U.S. District Judge R. DIXON HERMAN, Harrisburg, Pa., during the course of the criminal case U.S. v. AHMAD, ET AL, which order merely confirmed an agreement between counsel.

AUSA [redacted] advised that Attorney [redacted] will appear before Judge HERMAN in Harrisburg on 9/11/73, to move to vacate the protective order. b6 b7C

AUSA [redacted] also advised that a second pre-trial conference scheduled for 8/15/73, did not occur, and that Plaintiffs have not submitted a written theory of their case as stipulated in the first pre-trial conference.

Philadelphia will await instructions from the Office of Legal Counsel regarding response to Plaintiffs' Interrogatories, and will keep the Office advised of further developments.

ENCLOSURE BUREAU FROM PHILADELPHIA

Re: SISTER ELIZABETH MC ALISTER, ET AL v.
RICHARD G. KLEINDIENST, ET AL
CIVIL ACTION NO. 72-1997, EDPa.

Contents: One copy of 7 pleadings

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ENCLOSURE

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SISTER ELIZABETH McALISTER, et al., :
Plaintiffs
: Civil Action No. 72-1977
v.
:
RICHARD G. KLEINDIENST, et al.,
Defendants :

PLAINTIFF'S FIRST INTERROGATORIES TO DEFENDANTS

To: Defendants in the captioned matter
c/o Earl Kaplan, Esq.
Attorney, Department of Justice
Washington, D.C.

Plaintiffs hereby propound the following Interrogatories to the defendants in the captioned matter to be answered under oath in accordance with Rule 33 of the Federal Rules of Civil Procedure.

Please take notice that under F.R.C.P. Rule 33 (a), a copy of such answers must be served upon the undersigned within 30 days of your receipt of these Interrogatories.

Dated: August 15, 1973.

Jack J. Levine, Esq.
1427 Walnut Street
Philadelphia, Pa. 19102
(215) LO3-1388

William J. Bender, Esq.
c/o Constitutional Litigation
Clinic
Rutgers School of Law
Newark, New Jersey 07102

Attorneys for Plaintiffs

1. With respect to each plaintiff, Sister Elizabeth McAlister and William Davidon, state whether any of the defendants to this action, their agents, officers, employees, predecessors in office, or any other person acting under their direction, (hereinafter jointly referred to as defendants) request, or control, have engaged in or are engaging in electronic surveillance of conversations such that during said electronic surveillance, Plaintiffs' voices were overheard (such surveillance and overhearing hereinafter referred to as "overhearings" or "overheard conversations").

2. If the answer to question number one is yes, as to either plaintiff state:

(a). Each date each plaintiff was overheard, and if overheard more than once on each date, the number of overhearings occuring on each date.

(b). The duration of each overhearing.

(c). The address, apartment number and room where such overhearing took place.

3. For each specific overhearing, indicate if a tape or other recording and/or transcript or other report of the contents of the overheard conversations exists, and if the answer is yes, state verbatim contents of each transcript and/or report, or in lieu thereof, attach copies hereto of each of the said items.

4. For each overhearing, indicate:

(a). The names of all persons who requested permission to conduct the overhearing and all persons who were the recipients of such requests.

(b). Whether there are or were any documents requesting permission to conduct the overhearings.

(c). If the answer to part (b) above is yes, set forth the exact contents of each and every one of said documents, or, in lieu thereof, attach copies hereto.

(d). The names of all persons who authorized the commencement of each overhearing.

(e). Whether there existed and/or now exists a document or documents authorizing the conducting of such overhearings.

(f). If the answer to part (e) above is yes, set forth the exact contents of each and every one of said documents, or, in lieu thereof, attach copies hereto.

(g). The contents of all regulations, directives, authorizations and/or guidelines (whether written or unwritten) for determining whether a national security electronic surveillance should be utilized in any given case; and, if so, the routing system through which such requests are processed.

5. For each overhearing, indicate the following:

(a). The names of all persons who installed and/or maintained the equipment used to effect, record, or transmit the overhearings, and whether each such person entered the premises under electronic surveillance in order to install and/or maintain equipment.

(b). The nature of the equipment described in part (a) above including:

1. The exact placement of all such equipment during the overhearing.

2. Whether a sound or other record of the overheard conversation was made simultaneously with the overhearing.

(c). Whether the overhearings were continually monitored by any individuals, and, if so, whom.

(d). The names of all persons who transcribed or otherwise reduced to writing the contents of the overheard conversation.

(e). The names of all persons to whom the contents of the overheard conversation was disclosed.

(f). Whether any writing existed or exists which reflects the transmittal of the contents of the overheard conversation in any form, to any person or persons.

(g). If the answer to part (f) above is yes, set forth the exact contents of all such writings or attach copies hereto.

(h). Who has had, or presently has access to transcriptions or summaries of said overhearings without the necessity of securing written or other authori-

zation to view them?

(i). Whether a "voiceprint" machine was utilized in order to identify one or more voices overheard.

(j). If the response to part (i) above is yes:

1. The name of the person who directed such an identification to be made.

2. The names of every person thus identified.

6. For each overhearing indicate the following:

(a). Whether the co-operation of any telephone company employee was sought in the overhearing or installation of equipment.

(b). If the response to part (a) is yes, the name of all such employees; their employer's name; whether or not the employer's co-operation was obtained; and if so, the exact acts or omissions constituting such co-operation.

7. For each overhearing, indicate with respect to each of the plaintiffs:

(a). Whether at the time, the defendants, or any one of them, believed such overhearing to be legal; and,if so, the complete facts and information regarding plaintiffs which defendants believed justified the surveillance in question.

(b). If the response to part (a) is yes, the specific statutory, judicial, executive, or other authority upon which such belief was based.

8. For each overhearing, indicate with respect to each of the defendants:

(a). The reason or reasons such overhearing was effected including:

1. The factual basis for such reasons;

2. The uses to which the sought or expected information was to be put;

3. The exact contents of any and all conversations, or any correspondence, memoranda, or other writings received or sent mentioning the advisability, necessity or usefullness of instituting, maintaining, or discontinuing such overhearings, or attach true copies of such items hereto.

(b). Whether any of the defendants/notified President Richard Nixon or any other person of such planned, ongoing, or discontinued overhearings, discussed such overhearings with him, or received from him any orders regarding such overhearing.

9. For each overhearing indicate:

(a). Whether any surveillance monitor, operator or other person made any written or oral opinions or conclusions as to the identities of supposedly "unknown" overheard voices, or verbally transmitted any such opinions or conclusions.

(b). If the response to part (a) above is yes, the

exact content of such oral or written opinions; in lieu thereof, attach true copies hereto.

10. Indicate with respect to each plaintiff whether any conversations were overheard to which an attorney was a party.

Respectfully submitted:

Jack J. Levine, Esq.
1427 Walnut Street
Philadelphia, Pa. 19102
(215) LO3-1388

William J. Bender, Esq.
c/o Constitutional Litigation Clinic
Rutgers Law School
179 University Avenue
Newark, New Jersey 07102

Attorneys for Plaintiffs

E.D. of PA.
PHILA. PA. 19107
AUG 16 8 43 AM '73

UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	:	
Plaintiffs,	:	Criminal Action No. 14950
v.	:	
SISTER ELIZABETH McALISTER,	:	
Defendant.	:	

MEMORANDUM IN SUPPORT OF MOTION TO VACATE THE PROTECTIVE ORDER OF MAY 1, 1972

The protective order prohibited disclosure of the contents of any tapes or transcripts of conversations overheard through electronic surveillance to anyone but defendants and defense counsel in the case of United States v. Ahmad, 335 F. Supp 1198 and 347 F. Supp 912 (M.D. Pa. 1972), criminal no. 14950. However, movant William Davidon deduced from his own knowledge and from newspaper coverage of the criminal proceedings that his own conversations were indeed overheard. He therefore, joined by Sister Elizabeth McAlister, filed a civil suit for damages against several government officials in the District Court for the Eastern District of Pennsylvania under 18 U.S.C. §2520, 47 U.S.C. §605, and United States Constitutional Amendments One, Four and Nine.

Consequently, Sister Elizabeth McAlister, plaintiff in the ongoing civil action, is equipped with the transcripts of those conversations, but movant Davidon who alleges that he was overheard speaking to movant McAlister, is precluded from

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AUG 1973
DONALD R. BERRY, Clerk
PER _____ DEPUTY CLERK

viewing the transcripts, much to the prejudice of his rights to claim damages for the invasion of his privacy through the illegal electronic surveillance.

In the ongoing civil action, No. 72-1977, E.D. Pa. defendants' answer to plaintiffs' complaint refuses to deny or affirm the truth of plaintiffs' allegations in eleven out of seventeen paragraphs, relying upon the protective order entered in United States v. Ahmad, supra, a separate case in a different forum. Movants may reasonably infer that discovery now being instituted will be similarly frustrated by defendants' reliance upon the protective order.

As a result, the Honorable Richard A. Powers III, the judge presiding over McAlister v. Kleindienst, has directed movants to petition this court to vacate its protective order of May 1, 1972.

F.R.C.P. 26(c) authorizes "the court in which the action is pending" to issue a protective order limiting discovery "for good cause shown." Not only has no showing of "good cause" been made in the present case to justify an impediment to plaintiff Davidon's rights to claim damages under 18 U.S.C. §2520, 47 U.S.C. §605, and United States Constitutional Amendments One, Four and Nine, but no such showing was made in United States v. Ahmad, supra, since the order was entered through stipulation. It is highly objectionable to allow persons foreign to Plaintiff Davidon's civil action to "stipulate-away" his constitutional and statutory rights.

Defendants in the civil action should be now required to show "good cause" why the protective order should not be rescinded. Clearly, the burden is on the party seeking to

limit discovery. The beginning presumption is one of "unlimited discovery," which presumption may be overcome by a showing of "good cause." Novel v. Garrison, 42 FRD 234 (D.C. La. 1967). Protective orders limiting discovery will continue to be the extraordinary situation. United States v. Purdone, 30 FRD 338 (D.C. Mo. 1962).

The Circuit Court for the Eastern District of Pennsylvania said:

> As Mr. Justice Murphy stated in the landmark case of Hickman v. Taylor, 329 US 495, 507 (1947):
>
> > '... the deposition-discovery rules are to be accorded a broad and liberal treatment. No longer can the time-honored cry of 'fishing expedition' serve to preclude a party from inquiring into the facts underlying his opponent's case. Mutual knowledge of all the relevant facts gathered by both parties is essential to proper litigation.'
>
> David v. Romney, 16 F.R. Serv.2d 100, (U.S.D.C. Ed. Pa. 1972)

Finally, it should be considered that an absurdity obtains in allowing Plaintiff McAlister access to the surveillance transcripts, but not Plaintiff Davidon. Plaintiff Davidon in fact alleges he talked with Plaintiff McAlister in some of those same overheard conversations already disclosed to Plaintiff McAlister. Since the purpose of the protective order was to prevent disclosure of the contents of the transcripts, the fact that Plaintiff Davidon found out anyway renders the protective order a useless, though harmful "leftover."

For all the above reasons, plaintiffs pray that the protective order now be vacated so that a full and just determination of both the appropriate extent of discovery and of the

merits of the case may be made by the forum hearing the case.

Respectfully submitted,

J. Thomas Menaker
Attorney for Movants

Dated: 8 August 1973

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UNITED STATES DISTRICT COURT

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FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
	:	Criminal Action
v.	:	No. 14,950
	:	
SISTER ELIZABETH McALISTER,	:	
	:	
Defendant.	:	

MOTION TO VACATE THE PROTECTIVE ORDER OF MAY 1, 1972

TO: John Cottone, United States Attorney; Richard G. Kleindienst; L. Patrick Gray III; John N. Mitchell; Mason Smith; Charles Durham, and Joseph Jamieson, defendants in McAlister v. Kleindienst, civil action no. 72-1977 E. D. Pa. and Earl Kaplan and Edward S. Christenbury, their attorneys.

Please take notice, that at 9:30 o'clock AM, on Sept 11th, 1973 before the Honorable R. Dixon Herman, U.S.D.J. in the Federal Courthouse, City of Harrisburg, state of Pennsylvania, the undersigned attorney, J. Thomas Menaker, Esq. will appear on behalf of movants Sister Elizabeth McAlister and William Davidon, the plaintiffs in McAlister v. Kleindienst, No. 72-1977, E.D. Pa. to move to vacate the protective order entered by the Honorable R. Dixon Herman on May 1, 1972 during the course of the criminal case, United States v. Ahmad, et al., 335 F. Supp. 1198 and 347 F. Supp. 912 (M.D. Pa. 1972), criminal no. 14950.

In support of said motion, movants attach a copy of the said protective order and rely upon the memorandum annexed hereto.

FILED
HARRISBURG, PA.
AUG 16 1973
DONALD R. BERRY, Clerk
PER _____ DEPUTY CLERK

Respectfully submitted,

J Thomas Menaker 8/8/73

J. Thomas Menaker, Esq.
Attorney for Movants

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

ELIZABETH McALISTER, et al. :

v. : Civ. No. 72-1977

RICHARD E. KLEINDIENST, et al.:

MOTION TO COMPEL ANSWER TO COMPLAINT

Plaintiffs, by their attorneys, respectfully move this Court for an order compelling defendants to admit or deny certain factual allegations in the Complaint in this matter, and in support of this motion represent as follows:

1. The Complaint in the above captioned matter was filed on October 10, 1972, alleging, inter alia, that telephone communications of plaintiffs were unlawfully intercepted during the period November 24, 1970 - January 6, 1971, inclusive.

2. Paragraphs 1,5, and 7-15 of the Complaint alleged, inter alia, the underlying facts and circumstances of the actions and the identity of the named and unnamed defendants.

3. These Complaint allegations are grounded upon the alleged interception of certain telephone conversations pursuant to the so-called "national security" exception to the warrant requirements of the Fourth Amendment to the United States Constitution. The interception was purportedly authorized by the President of the United States acting through John N. Mitchell, the Attorney General of the United States.

4. The fact of the interception was disclosed by Government officials pursuant to a wiretap disclosure motion filed by Elizabeth McAlister (a plaintiff herein) during pre-trial

hearings in United States v. McAlister, et al., Indictment No. 14886, M.D. Pa. 1971.

5. Plaintiff William Davidon was, upon information and belief, the person upon whose telephone the wiretap was placed.

6. On May 1, 1972, counsel for the United States and counsel for Elizabeth McAlister, then a defendant in the aforementioned prosecution, entered into a stipulation "that the contents of or information contained in any tapes or transcripts thereof (sic) relating to any overhearing of conversations by means of electronic surveillance, shall not be disclosed to persons other than defense counsel of record or defendants Philip Berrigan and Elizabeth McAlister." A copy of this stipulation is attached hereto as Exhibit "A".

7. In their answer to the Complaint in the instant lawsuit, defendants refused to admit or deny the occurrence of the alleged unlawful interceptions and the facts attendant thereto on the grounds that "either to admit or deny the [allegations of the Complaint concerning the interception] would violate the letter and spirit of the stipulation - protective order signed by counsel for the United States and counsel for Plaintiff McAlister" in the above mentioned (and now concluded) criminal prosecution.

8. Plaintiffs McAlister and Davidon respectfully submit that defendant's position is untenable for the following reasons:

(a) Plaintiff McAlister and her counsel are expressly allowed disclosure by the very terms of the stipulation which defendants now cite in support of non-disclosure.

(b) Plaintiff Davidon's statutory and constitutional rights to redress cannot lawfully be abrogated by a stipulation to which he was not a party and which was not intended to affect his legal rights. This is particularly the case in as much as the wiretap in question was allegedly upon Plaintiff Davidon's telephone and Plaintiff McAlister was overheard merely as an incident to the primary target of the surveillance.

(c) Defendants in the instant case have already made disclosure of a portion of the logs and transcripts of the Davidon surveillance to Mr. Robert Williamson, a defendant in United States v. Anderson, et al., Criminal No. 602-71, D. N.J. 1973 (the so-called "Camden 28" Draft Board prosecution). Mr. Williamson's phone conversations were overheard in the course of the wiretap which is the subject of the instant lawsuit, and disclosure was made pursuant to a disclosure motion filed by Mr. Williamson in the above-mentioned Anderson prosecution. Disclosure was ordered by the Hon. Clarkson S. Fisher, U.S.D.J., by order dated February 13, 1973. A copy of this order is attached hereto as Exhibit "B".

9. Plaintiffs McAlister and Davidon would have no objection to, and in fact would request, that a protective order be entered by this Court restricting content disclosure only to those persons whose conversations were actually overheard. Such an order is necessary to protect the right to privacy of those persons, plaintiffs included. Moreover, the obvious intent of the orders entered in the above mentioned Harrisburg and New Jersey criminal prosecutions was to accomplish precisely this end; and for defendants to argue that such protective orders preclude admission to the victims of the unlawful surveillance

that they were in fact overheard seems disengenuous.

WHEREFORE, Plaintiffs Elizabeth McAlister and William Davidon request that an order be entered directing that defendants admit or deny the allegations of the Complaint relating to the facts and circumstances of the wiretap in question.

Respectfully submitted,

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(215) LO3-1388

William Bender
Constitutional Litigation Clinic
Rutgers School of Law
103 Washington Street
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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SISTER ELIZABETH McALISTER, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No.
	)	72-1977
RICHARD G. KLEINDIENST, et al.,	)	
	)	
Defendants.	)	
	)	

MEMORANDUM IN SUPPORT OF DEFENDANTS' MOTION TO REQUIRE PLAINTIFF McALISTER TO ANSWER DEFENDANTS' REQUEST FOR ADMISSIONS

The plaintiff, Elizabeth McAlister, has refused to answer defendants' request for admissions pertaining to the authorship, receipt and transmission of four documents attached to the request. The information contained in the documents relate, in part, to a plot to kidnap Henry Kissinger and possible sabotage against the United States. Plaintiff has also refused to answer certain requests relating to travel to and attendance at a meeting held on August 17, 1970 in Connecticut.

In replying to defendants' request for admissions, the plaintiff declined to admit or deny the requested admission on the primary ground that the information sought is not relevant to the civil action brought under 18 U.S.C. § 2520 for damages resulting from alleged unlawful electronic surveillance overhearings of plaintiff's telephone conversations. In plaintiff's supplemental reply to request for admissions she corrected the statement in her reply to the admission that "the only action before the court is plaintiff's complaint

under 18 U.S.C. 2520," by adding that she also complains of "violations of rights protected under the First, Fourth and Ninth Amendments of the United States Constitution, and 47 U.S.C. § 605."

By refusing to properly answer the requests, the plaintiff has violated the general purpose of the discovery rules set forth in the Federal Rules of Civil Procedure and the law interpreting those rules. Rule 26(b)(1) provides:

> Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

Federal discovery rules have as their premise a policy towards liberalized discovery practices. Hickman v. Taylor, 329 U.S. 495, 507 (1947). The refusal of plaintiff to answer the requested admissions is inconsistent with the liberal policy of discovery enunciated by the Court in Hickman and thus was improper. Such refusal effectively deprives defendants of relevant information necessary for the defense of this suit.

RELEVANCY

Plaintiff opposes answering the request on the grounds that the genuiness of the specified documents can have no conceivable bearing upon damages, or on the fact of the surveillance itself, or upon the existence of a warrant. It is appropriate to first discuss plaintiff's contention that the data defendants seek is irrelevant since it is relevance to the subject matter which determines the scope of discovery. "Relevancy" as used in Rule 26(b)(1) has been given a broad definition and application. In Foremost Promotions v. Pabst Brewing Co., 15 F.R.D. 128 (N.D. Ill. 1954), the Court stated that the test of relevancy of a question to the subject matter of the suit is broader than the precise issues presented by the pleadings. Generally, the Courts have interpreted "relevant" to mean matter that is relevant to anything that is or may become an issue in the litigation. 4 Moore's Federal Practice ¶ 26.56[1], p. 26-131, footnote 34 and cases cited thereunder.

Defendants contend that the data sought by their request not only relates to an issue in this litigation but also directly relates and emanates from the allegations in the Complaint. This action is brought by the plaintiffs for compensatory and punitive damages for alleged illegal surveillance; and it is alleged the action arises under the First, Fourth and Ninth Amendments to the Constitution, 18 U.S.C. § 2520 and 47 U.S.C. § 605. (Complaint, paragraphs 1 and 2).

In paragraph 17 of the Complaint, plaintiffs allege that the overhearings, use and disclosure were not made in good faith reliance on a court order or legislative authorization. In answer to the Complaint, defendants have admitted the authenticity of Exhibit A attached to the Complaint in which the then Attorney General, John N. Mitchell, opposed the disclosure to "McAlister of information concerning what the Government believes are probably telephonic overhearings of her voice which occurred during the course of a national security surveillance of a telephone installation." (Answer, Fifth Defense, paragraph 14). The defendants further raised as defenses to plaintiffs' allegations that: all activities of the defendants were performed in furtherance of their official duties, were within the scope of their authority and were not in excess of their statutory authority. (Answer, Second Defense); and that all activities of the defendants were performed in good faith and in the reasonable belief that such activities were necessary, lawful and within the scope of their authority. (Answer, Fourth Defense).

It is clear that the plaintiff McAlister has brought into issue whether or not the defendants acted unlawfully in connection with the McAlister overhearing and the defendants have answered, in part, that their activities were performed in furtherance of their official duties and were undertaken in good faith. The latter defense being available in a civil suit where constitutional rights were allegedly deprived. Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics,

456 F. 2d 1339 (2d Cir. 1972). It is the contention of the defendants that plaintiff's answers to the request for admissions involving the letters and the meeting in August 1970 relate to the subject matter of this action. Further, the requested admissions are directly related to the issue of liability as well as to the issue of possible damages resulting therefrom for the alleged acts of the defendants.

It is interesting to note that while the requested admissions are highly relevant to the subject matter of this case and the defenses asserted, even if such admissions were irrelevant, it could not prejudice the plaintiff in any way. See, 4A Moore's Federal Practice ¶ 36.04[2], p. 36-32. The admission is specifically limited to the purposes of the action in which it is made and consequently an admission has only the effect of eliminating the issue from the action. Plaintiff's allusion to a possible claim of self-incrimination if the admissions are made is not a proper ground for refusal as pointed out below.

CLAIM OF SELF INCRIMINATION UNDER THE FIFTH AMENDMENT

The second reason for refusal to answer the requested admission according to the plaintiff McAlister is based on the grounds "that such answers might conceivably subject plaintiffs to renewed investigation and possibly criminal prosecution in derrogation (sic) of plaintiffs' Fifth Amendment right not to be forced to accuse themselves or bear witness against

themselves." Assuming that the plaintiff McAlister, to whom the request for admissions was made, has properly exercised her privilege under the Fifth Amendment, such invocation of the privilege is totally improper.

The Fifth Amendment right against self-incrimination would be of no avail to plaintiff in stemming the discovery sought by defendants in this case. See, 4 Moore's Federal Practice ¶ 26.60[6], p. 26-253. In Independent Productions Corp. v. Loew's Inc., 22 F.R.D. 266, 276-277 (S.D.N.Y. 1958) the Court ruled the plaintiff waived whatever Fifth Amendment privilege may have existed before the lawsuit was begun. Also pertinent is the following statement by the Court in Lyons v. Johnson, 415 F. 2d 540, 542 (9th Cir. 1969):

> Clearly, the process of discovery has become increasingly recognized as one of the primary and essential elements in making federal court business flow and in contributing to the accomplishing of trial justice or settlement termination of litigation. The scales of justice would hardly remain equal in these respects, if a party can assert a claim against another and then be able to block all discovery attempts against him by asserting a Fifth Amendment privilege to any interrogation whatsoever upon his claim. If any prejudice is to come from such a situation, it must, as a matter of basic fairness in the purposes and concepts on which the right of litigation rests, be to the party asserting the claim and not to the one who has been subjected to its assertion. It is the former who has made the election to create an imbalance in the pans of the scales.

Moreover, a claim of the privilege of self-incrimination could not be made in objection to a request to admit under Rule 36 because the rule provides that the admission "is for the purpose of the pending action only and is not an admission by him for any other purpose nor may be it used against

him in any other proceedings." Woods v. Robb, 171 F. 2d 539 (5th Cir. 1948); United States v. Lewis, 10 F.R.D. 56 (D. N.J. 1950). Furthermore, since the plaintiff has already been tried for having conspired to commit the criminal offenses which is the subject matter of the letters in the requested admissions, the chance of a renewed investigation and criminal prosecution would appear extremely remote.

CONCLUSION

The foregoing makes clear the refusal of the plaintiff McAlister to either admit or deny the request for admissions is without legal justification and defendants request the Court to require said plaintiff to answer defendants' request for admissions.

Respectfully submitted,

HENRY E. PETERSEN
Assistant Attorney General

ROBERT E. J. CURRAN
United States Attorney

EDWARD S. CHRISTENBURY
Attorney, Department of Justice

CARMEN C. NASUTI
Assistant United States Attorney

EARL KAPLAN
Attorney, Department of Justice
Washington, D. C. 20530
202-739-3885

Attorneys for Defendant Mitchell in his official capacity as former Attorney General of the United States and for the remaining Defendants.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SISTER ELIZABETH McALISTER, et al., Plaintiffs,	)	
v.	)	Civil Action No. 72-1977
RICHARD G. KLEINDIENST, et al., Defendants.	)	

MOTION TO REQUIRE PLAINTIFF McALISTER TO ANSWER DEFENDANTS' REQUEST FOR ADMISSIONS

Now come the defendants by their undersigned attorneys, and move this Court pursuant to Rule 36(a) of the Federal Rules of Civil Procedure for an order requiring and directing the plaintiff, Elizabeth McAlister, to answer defendants' request for admissions Numbers 1 through 9, which request for admissions was served by mail on plaintiff on February 1, 1973. A copy of said request is attached hereto as Exhibit A.

On June 21, 1973, plaintiff served by mail, her Reply to Request for Admissions and on July 18, 1973, a Supplemental Reply to Request for Admissions was served on defendants. In said reply plaintiff refused to admit or deny any of the requested admissions on the grounds that the "data is outside the permissible scope of discovery in that: 1) it is irrelevant to the subject matter of the action pending, and 2) it is not 'reasonably calculated to lead to the discovery of admissible evidence', pursuant to F.R.C.P. 26(b)(1)." Plaintiff further contended that her answers might subject her to renewed investigation and possible criminal prosecution in derogation of her Fifth Amendment rights.

The grounds set forth by plaintiff in refusing to admit or deny the request is without legal justification. In support of this motion, a memorandum of law is attached hereto.

WHEREFORE, defendants move the Court for an order requiring the plaintiff to serve an amended reply answering the requested admissions and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ROBERT E. J. CURRAN
United States Attorney

HENRY E. PETERSEN
Assistant Attorney General

CARMEN C. NASUTI
Assistant United States Attorney

EDWARD S. CHRISTENBURY
Attorney, Department of Justice

EARL KAPLAN
Attorney, Department of Justice
Washington, D. C. 20530
202-739-3885

Attorneys for Defendant Mitchell in his official capacity as former Attorney General and for the remaining Defendants.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SISTER ELIZABETH McALISTER, et al., Plaintiffs,	)	
v.	)	Civil Action No. 72-1977
RICHARD G. KLEINDIENST, et al., Defendants.	)	

OPPOSITION TO MOTION TO COMPEL ANSWER TO COMPLAINT

Defendants by their undersigned attorneys, oppose plaintiffs' motion for an order compelling defendants to admit or deny certain factual allegations in the Complaint. The aforesaid motion was mailed to defendants on July 27, 1973. The time within which to respond to plaintiffs' motion was extended by order of the Court to August 15, 1973.

Defendants have declined to answer certain allegations of the Complaint because either to admit or deny the allegations which relate to alleged unlawful interception of plaintiffs' telephone conversations would violate the letter and spirit of the protective order dated May 1, 1972 by the Honorable R. Dixon Herman in United States v. Ahmad, et al., Criminal No. 14950 (M.D. Pa.). (Exhibit A attached to plaintiffs' Motion to Compel Answer to Complaint).

Contrary to the position taken by the plaintiff McAlister, the aforesaid protective order expressly permitted disclosure only to the plaintiff McAlister and her counsel and no one else.

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8-15-73

By its express terms, the protective order prohibits the overhearings from being "disclosed to persons other than defense counsel of record or defendants Philip Berrigan and Elizabeth McAlister." Implicit in that order is the requirement that any use of the contents or information derived from any overhears was for the purpose of that case only and then such use was only permitted with Judge Herman's prior approval.

Plaintiff Davidon argues that his rights cannot lawfully be abrogated by a stipulation to which he was not a party. He alleges that he was the primary target of the surveillance and that plaintiff McAlister was incidentally overheard. Plaintiff Davidon's rights have not been so abrogated, in that if he has a factual basis for concluding that he was the subject of such electronic surveillance, he has a remedy available to him, i.e., all he or plaintiff McAlister need do is apply to Judge Herman to modify his order or lift the restrictions.

The plaintiffs can find no support for their contention in the fact that the United States made a disclosure, pursuant to a Court order, of certain overhears of Robert Williamson in the case of United States v. Anderson, et al., Criminal No. 602-71 (D. N.J.). Plaintiff Davidon alleges he was the subject of the wiretap ("Davidon surveillance") in the Anderson case. However, there is nothing in the two protective orders which so states and if, in fact, McAlister or Williamson or their counsel have related information concerning the overhearings to others contrary to the express provisions of the protective orders then the District Court judges should be so advised. Judge Fisher's

order .(Exhibit B attached to the Motion to Compel Answer to Complaint) expressly prohibits disclosure of any of the material relating to the overheard conversations and further prohibits access of the records of the conversations to anyone except Robert Williamson and his counsel. Judge Fisher's order required the return of all records to the Court at the termination of the proceeding.

The defendants further oppose plaintiffs' motion on the grounds that the statements in their Answer to the Complaint have been set forth with the particularity possible under the circumstances. In view of the outstanding protective order as stated in the Answer, there are no further facts which the defendants can provide to expand their answers.

Therefore, until the plaintiffs apply to the Court to modify the protective order and such modification is granted, the defendants are not required to further answer the Complaint.

Respectfully submitted,

HENRY E. PETERSEN
Assistant Attorney General

ROBERT E. J. CURRAN
United States Attorney

EDWARD S. CHRISTENBURY
Attorney, Department of Justice

CARMEN C. NASUTI
Assistant United States Attorney

EARL KAPLAN
Attorney, Department of Justice
Washington, D. C. 20530
202-739-3885

Attorneys for Defendant Mitchell in his official capacity as former Attorney General of the United States and for the remaining Defendants.

Airtel

To: SAC, Philadelphia (62-5421)

9/20/73

From: Director, FBI (62-115389)

1 - Mr. Miller
1 - Mr. Mintz
1 - Mr. Williamson

SISTER ELIZABETH McALISTER, et al. v.
RICHARD G. KLEINDIENST, et al.
(E.D. Pa.) CIVIL ACTION No. 72-1977

Reurairtel 8/21/73.

The Department advised that when it becomes necessary to respond to these interrogatories when the protective order in United States v. Ahmad is dissolved, copies of the logs in the William Davidon intercept will be required. No other information has been requested.

Philadelphia furnish the Bureau two copies of the logs in the William Davidon intercept.

NOTE: [redacted], Criminal Division of the Department, who is representing the Government in this civil action, advised SA James L. Williamson, Office of Legal Counsel, that he needed copies of the logs for use in preparing the Government's response to the interrogatories. b6 b7C

ST-102

REC-26 62-115389-19

JLW:mfd
(6)

MAILED 25
SEP 20 1973
FBI

3 ENCLOSURE

SEP 26 1973

SEP 21 1973

Assoc. Dir. ____
Asst. Dir.:
Admin. ____
Comp. Syst. ____
Ext. Affairs ____
Files & Com. ____
Gen. Inv. ____
Ident. ____
Inspection ____
Intell. ____
Laboratory ____
Plan. & Eval. ____
Spec. Inv. ____
Training ____
Legal Coun. ____
Telephone Rm. ____
Director Sec'y ____

MAIL ROOM ☑ TELETYPE UNIT ☐

CERTIFICATE OF SERVICE

I hereby certify that on this date I served upon counsel for defendants the foregoing Interrogatories by depositing them in the United States Mail, postage prepaid, addressed to the following counsel of record:

Earl Kaplan, Esq.
Attorney
Department of Justice
Washington, D.C. 20530.

Jack J. Levine, Esq.
1427 Walnut Street
Philadelphia, Pa. 19102
(215) LO3-1388

Attorney for Plaintiff

Dated: 9/15/73

4-312 (Rev. 1-18-62)

Date of Mail 10/1/73

Has been removed and placed in the Special File Room of Records Branch.

See File 66-2554-7530 for authority.

Subject JUNE MAIL ELIZABETH MC ALISTER: RICHARD G. KLEINDIENST

Removed By V257 79 OCT 30 1973

File Number 62-115389-20

Permanent Serial Charge Out

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI
(ATTN: OFFICE OF LEGAL COUNSEL)

DATE: 10/29/73

FROM : SAC, PHILADELPHIA (62-5421) (P)

SUBJECT: SISTER ELIZABETH MC ALISTER, ET AL;
v. RICHARD G. KLEINDIENST, ET AL;
CIVIL ACTION NO. 72-1977
EDPa.

Re Philadelphia airtel to Bureau, 10/1/73.

On 10/25/73, AUSA [redacted], EDPa., Philadelphia, Pa., advised a pre-trial conference was held in Philadelphia on 10/24/73, with attorneys from the Department present. U.S. Magistrate RICHARD A. POWERS presided over the conference.

b6
b7C

As a result of the conference, no further action is being taken pending the decision of U.S.D. Judge R. DIXON HERMAN, MDPa., regarding dissolution of the protective order issued in U.S. v. AHMAD. Discovery is to be completed within 90 days after the rendering of Judge HERMAN's decision. Meanwhile, the parties must advise Judge POWERS of the status of the case, in writing, on the 24th day of each month.

Philadelphia will maintain liaison with the appropriate AUSA in Philadelphia (EDPa.) and Harrisburg, Pa., (MDPa), and keep the Bureau advised.

REC 68 62-115389-21

16 NOV 2 1973

(2) - Bureau (RM)
1 - Philadelphia (62-5421) EX-105

RCH:tr
(3)

7 NOV 13 1973

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

5010-108-02

FBI (Rev. 5-22-64)

FBI

Date: 1/3/74

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL _____ (Priority)

TO: DIRECTOR, FBI
(ATTENTION: OFFICE OF LEGAL COUNSEL)

FROM: SAC, PHILADELPHIA (62-5421) (P)

SUBJECT: SISTER ELIZABETH MC ALISTER,
ET AL
VS. RICHARD G. KLEINDIENST,
ET AL
CIVIL ACTION NUMBER 72-1977
EDPA

Re Philadelphia letter to Bureau 10/29/73.

On 12/19/73 AUSA [redacted], Philadelphia, Pa., advised that on 10/24/73 USDJ R. DIXON HERMAN, EDPA, denied the motion of plaintiff MC ALISTER in instant suit to vacate the protective order of 5/1/72 in U.S. vs. AHMAD, pertaining to electronic surveillance data obtained during the Eastcon investigation. [redacted] further advised that on 9/12/73 USDJ E. MAC TROUTMAN granted plaintiff's motion to compel defendants to answer the complaint, in apparent conflict with the terms of the protective order. b6 b7C

[redacted] advised on 1/2/74 that on 12/20/73 a conference between counsel and Judge TROUTMAN was held in Reading, Pa., resulting in an agreement of counsel and an order by the court to stay the order compelling defendants' answer, pending plaintiff MC ALISTER's appeal from the order denying dissolution of the protective order and for 60 days thereafter. b6 b7C

EX-104 REC-61 62-115389-22

Departmental Attorney [redacted] appeared for the Government at the conference in Reading, Pa. AUSA [redacted] telephonically conversed with [redacted] on 1/2/74 and the latter advised him that the foregoing is the present status of this case. b6 b7C

ENCLOSURE

cc 5646

(2) - Bureau (Encls. 11) ENCLOSURE ATTACHED
1 - Philadelphia (62-5421)
RCH:ckm
(3)

20 JAN 7 1974

LEGAL COUNSEL
FBI - REC. UNIT

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

51 JAN 24 1974

U.S.Government Printing Office: 1972 — 455-574

Office of Legal Counsel will find enclosed various items of correspondence and memoranda covering issues arising in this case at and subsequent to the Pretrial Conference of 10/24/73. Among these papers is a statement of U.S. Magistrate RICHARD A. POWERS, III, concerning results of the 10/24/73 Pretrial Conference. AUSA [redacted] advised that Departmental Attorney [redacted] informed him the "KEITH" case mentioned in paragraph two thereof refers to the U.S. Supreme Court case of U.S. vs. U.S. District Court, Eastern Michigan (1972). b6 b7C

Philadelphia will maintain contact with the AUSA, EDPA, and will keep the Bureau apprised of developments.

ENCLOSURE BUREAU FROM PHILADELPHIA

Re: SISTER ELIZABETH MC ALISTER, ET AL VS. RICHARD G. KLEINDIENST, ET AL: CIVIL ACTION NUMBER 72-1977; EDPA

Contents: Various correspondence re pretrial conference 10/24/73 and subsequent to pretrial conference.

Bufile #

PHfile # 62-5421

PH airtel dated 1/3/74

F11

ENCLOSURE

ENCLOSURE 62-115389-22

FBI

Date: 3/28/74

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL _____ (Priority)

TO: DIRECTOR, FBI
ATTENTION: OFFICE OF LEGAL COUNSEL

FROM: SAC, PHILADELPHIA (62-5421)(P)

SUBJECT: SISTER ELIZABETH MC ALISTER, ET AL
v. RICHARD G. KLEINDIENST, ET AL
CIVIL ACTION NO. 72-1977
EDPa.

Re Philadelphia airtel to Bureau, with enclosures, 1/3/74.

Personnel of the U.S. Court of Appeals for the Third Circuit, Philadelphia, Pa., on 2/6/74 advised that WILLIAM DAVIDON, co-plaintiff in this case with Sister MC ALISTER, filed a Motion for Leave to Intervene as Appellant in connection with Sister MC ALISTER's appeal of the order of U.S. District Judge R. DIXON HERMAN, denying her motion to vacate the protective order in U.S. vs. AHMAD. DAVIDON's motion to intervene was filed 1/18/74.

Enclosed herewith for the Bureau is one copy each of DAVIDON's Motion and an Affidavit of Counsel with Brief for Appellant attached thereto as "Exhibit A."

REC-6 62-115349-24

7 MAR 29 1974

EX-109

(3) - Bureau (Enc. 2)(RM)
1 - Philadelphia
RCH/mkc
(4)

ENCLOSURE

ENCLOSURE ATTACHED

LEGAL COUNSEL

Approved: _____ Sent _____ M Per _____

Special Agent in Charge

☆U.S.Government Printing Office: 1972 — 455-574

On 3/26/74, a review of the record in U.S. District Court, Philadelphia, Pa., reflected a status letter dated 2/25/74, from [redacted], b6 b7C Chief, Civil Litigation Unit, to the Honorable RICHARD A. POWERS, III. That letter, filed on 2/28/74, summarized the most recent action in this case as follows:

1) On 1/25/74, the Government filed with the U.S. Court of Appeals a Motion for Enlargement of Time in which to respond to plaintiff DAVIDON's Motion to Intervene. The Government's motion was granted without objection on 2/8/74.

2) On 2/8/74, defendants filed a Brief and Appellee's Opposition to motion of DAVIDON to intervene.

No ruling has been made on DAVIDON's motion or on the Government's opposing motion.

AUSA [redacted] advised on 3/27/74 that b6 b7C there is no change in the status of this case.

Philadelphia will follow.

ENCLOSURES TO BUREAU ATTN: OFFICE OF LEGAL COUNSEL
FROM SAC, PHILADELPHIA (2)

RE: SISTER ELIZABETH MC ALISTER, ET AL
v.
RICHARD G. KLEINDIENST, ET AL
CIVIL ACTION NO. 72-1977, EDPA.

PHFILE 62-5421

Enclosed is one copy each of DAVIDON's Motion and an Affidavit of Counsel with Brief for Appellant attached thereto.

Via PH airtel, 3/28/74.

62-5421-
8

COMMONWEALTH OF PENNSYLVANIA

: SS

CITY OF PHILADELPHIA

AFFIDAVIT OF COUNSEL

Jack J. Levine, being duly sworn, deposes and states:

1. I am one of counsel to plaintiffs Elizabeth McAlister and William Davidon in McAlister et al. v. Kleindienst, et al., Civ. No. 72-1977, E.D. Pa., pending.

2. The subject matter of that lawsuit is the liability of governmental officials by reason of unlawful wiretapping of Ms. McAlister and Mr. Davidon.

3. The Middle District of Pennsylvania stipulated protective order which is the subject matter of the instant appeal precluded certain governmental disclosure as to the fact and circumstances of the wiretap in question. Because the governmental civil defendants in the Eastern District cited this protective order by way of refusing to file an answer to the duly filed civil complaint or submit to civil discovery, Mr. Davidon, together with Ms. McAlister, applied to the Middle District to remove the procedural impediment created by the order. Their application was refused, resulting in this appeal.

4. All parties agree that the stipulated protective order, if it is permitted to remain in effect, will effectively terminate the civil suit. In that event, Mr. Davidon, who was not a party to the stipulation, will take an appeal to this Court, asserting the illegality of the stipulated protective order insofar as it precludes his civil suit. Should this occur, the issues presented on that appeal would be virtually identical to those presented on the present appeal. See Brief of Appellant, attached hereto as Exhibit "A".

Jack J. Levine

SWORN TO AND SUBSCRIBED
before me this 16th day
of January 1974.

Antonia Dewees, NOTARY PUBLIC
My Commission expires: 10/23/76

IN THE
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 73-2094

UNITED STATES OF AMERICA

v.

EQBAL AHMAD
ELIZABETH McALISTER et al.
ELIZABETH McALISTER, Appellant

BRIEF FOR APPELLANT

JACK J. LEVINE
1427 Walnut Street
Philadelphia, Pa. 19102

WILLIAM BENDER
175 University Avenue
Newark, New Jersey 07102

Attorneys For Appellant

EXHIBIT A

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QUESTION PRESENTED

WHETHER THE COURT BELOW DISREGARDED ITS AFFIRMATIVE OBLIGATION TO VACATE A STIPULATED PROTECTIVE ORDER, WHERE THE PROTECTIVE ORDER HAD BEEN ENTERED IN ALREADY TERMINATED LITIGATION AND WHERE ITS CONTINUED EFFECT WAS TO INTERFERE WITH SUBSEQUENT LITIGATION IN A SISTER FEDERAL FORUM NOT CONTEMPLATED AT THE TIME THE ORIGINAL ORDER WAS ENTERED.

II

STATEMENT OF THE CASE

The subject matter of this appeal is the continued validity of a protective order entered in the Middle District of Pennsylvania, which order is relied upon by civil defendants[1] in the Eastern District of Pennsylvania as grounds for refusal to answer a duly filed civil complaint and submit to civil discovery in connection therewith. The court below has refused to vacate this earlier protective order.

Appellant Elizabeth McAlister and prospective Intervenor William Davidon[2] are currently civil plaintiffs in an action

[1]The civil defendants in the Eastern District are present and former governmental officials. Appellee here is the United States, the prosecuting party in the criminal prosecution in which the protective order was originally entered. For practical purposes, therefore, the legal interests represented by Appellee United States and the civil defendants in the Eastern District are identical. Their counsel in both cases are the same.

[2]Simultaneously with the filing of this brief, Mr. Davidon has filed a Motion For Leave to Intervene in this appeal.

asserting the lawlessness of electronic surveillance first disclosed by Appellee during the course of pre-trial proceedings in United States v. Ahmad et al., Crim. No. 14950, M.D. Pa. 1971. The surveillance in question was ruled unlawful by the trial judge in that matter. See United States v. Ahmad et al., 335 F. Supp. 1198 (M.D. Pa. 1971), and various officials of Appellee United States are civil defendants in the Eastern District. The Middle District criminal prosecution has long since terminated, and this Court has previously adjudicated unrelated issues connected therewith. United States v. Berrigan and McAlister, 482 F.2d. 171 (3rd.Cir. 1973)

Appellant and Mr. Davidon, a Philadelphia area resident, filed suit in October 1972 in the Eastern District of Pennsylvania for money damages in connection with the above mentioned wiretap, alleging causes of action under 18 U.S.C. Sec. 2520 and the United States Constitution. McAlister v. Kleindienst et al., Civil No. 72-1977, E.D. Pa., pending. In December 1972, the civil defendants filed their answer to the complaint, refusing to admit or deny the surveillance in question on the grounds that to do so "would violate the letter and spirit" of a stipulated protective order previously entered by the trial court in the criminal prosecution. The civil defendants have likewise refused to submit to civil discovery on the same grounds.

stipulated protective order, entered during a post-indictment hearing in May 1972, provided as follows:

> It is stipulated by and between counsel for the parties that the contents of, or information contained in any tapes or transcripts thereof, relating to any overhearing of conversations by means of electronic surveillance shall not be disclosed to persons other than defense counsel of record or defendants Philip Berrigan and Elizabeth McAlister.

A copy of the stipulation appears at page 9A of the Joint Appendix. Mr. Davidon, not being a defendant in that proceeding, was not a party to the stipulation.[3] Following a series of pre-trial conferences in the Eastern District, and in light of civil defendants' continued refusal to make joint application to the Middle District trial judge to vacate or modify the stipulated protective order, Appellant and Mr. Davidon together requested the previous trial judge, the Hon. R. Dixon Herman, to vacate the order "so that a full and just determination of both the appropriate extent of discovery and the merits of the case may be made by the forum [i.e. Eastern District, per Hon. E. Mac Troutman] hearing the case," Memorandum filed in the court below in support of the McAlister-Davidon Motion to Vacate Protective Order, at pp. 3-4.

[3] Although the stipulation precluded disclosure to Mr. Davidon that he was the subject of the wiretap, the civil complaint set forth the persuasive circumstantial evidence which led him to conclude that his telephone had in fact been monitored. See paragraph 15 of the civil complaint, included in the Joint Appendix at 14A,17A, and 18A.

Appellee opposed this request, on the ground that the stipulated protective order could not and should not be vacated without its consent and on the further ground that to do so would "prejudice" the "national interest". Absolutely no showing was made by Appellee as to what this supposed "national interest" was, nor was any so-called "national interest" stipulated to as part of the protective order. In short, Appellee was asking the court below to effectively terminate civil litigation commenced in another forum over which that Court had absolutely no jurisdiction and which bore no substantive relation to the criminal trial over which it had previously presided - except in the sense that the Court had previously ruled unlawful the wiretap in question. Moreover, at the time the protective order was entered, Judge Herman had expressly reserved to the parties, including Appellant McAlister, the right to seek modification of the protective order in the event "it becomes important". See Transcript, May 1, 1972, at pp. 89-90, which is set forth at pp. 7A-8A of the Joint Appendix.

At the time Judge Herman refused Appellant's request to vacate his protective order, Appellees were subject to an Eastern District order compelling them to answer Appellant's civil complaint. That order, which has been stayed by agreement of counsel pending this appeal, was entered in the Eastern District by Judge Troutman on September 12, 1973, and is set forth at pp.12A-13A of the Joint Appendix.

III

ARGUMENT

THE REFUSAL OF THE COURT BELOW TO VACATE ITS PROTECTIVE ORDER WAS WITHOUT FOUNDATION IN LAW AND WAS A DIRECT BREACH OF THE TERMS UPON WHICH THE ORIGINAL ORDER WAS BASED.

A. The Court Below Disregarded Its Afirmative Obligation to Aid the Orderly Course of Litigation in a Sister Federal Forum.

With the enactment of the Omnibus Crime Control Act of 1968, Congress created a complex and comprehensive scheme for the regulation of private and governmental electronic surveillance, Title III, Omnibus Crime Control and Safe Streets Act of 1968, 18 U.S.C. Secs. 2510-2520, including the creation of a statutory cause of action in the event of unlawful use of such devises. 18 U.S.C. Sec. 2520. With its earlier decisions in Berger v. United States, 388 U.S. 41 (1967) and Katz v. United States, 389 U.S. 347 (1967), the Supreme Court likewise prescribed constitutional limitations on such practices, limitations whose breech is now directly actionable by private litigants. Bivens v. Six Federal Narcotics Agents, 403 U.S. 388 (1971); cf. Bell v. Hood, 327 U.S. 678 (1946). The illegality of so-called domestic "national security" wiretaps is likewise

the law of the land, see United States v. United States District Court, 407 U.S. 297 (1972),(hereinafter, the "Keith" case); and, indeed, the wiretap involved in the instant case was itself held unlawful prior to the Court's decision in Keith.

The ruling of the Court below has effectively terminated a duly commenced civil lawsuit seeking to litigate the above rights, a lawsuit filed in a sister forum over which the Court below had absolutely no jurisdiction. Appellant's application to the Court below was unrelated to the merits of that civil litigation, and sought merely to remove the procedural impediment created by a protective order entered in long since terminated litigation. Under such circumstances the refusal of the lower Court to vacate its earlier order and aid the course of the sister forum litigation was a clear abuse of discretion, Ex Parte Uppercu, 239 U.S. 435 (1915); Olympic Refining Co. v. Hon. James M. Carter, Respondent, 332 F.2d 260 (9th Cir. 1964); American Securit Co. v. Shatterproof Glass Corp., 20 F.R.D. 196 (D.C. Del. 1957); cf. United States v. Brown, 317 F.Supp. 531, 532-533 (E.D. La. 1970)(protective order regarding government wiretap exhibit dissolved in order to litigate taint hearing); United States v. Carrabia, 272 F.Supp. 772,773 (N.D. Ohio 1967)(protective order regarding wiretap logs revoked sua sponte by the Court in order to expedite hearing.)

Ex Parte Uppercu, supra, would seem to be dispositive of the instant appeal, particularly with regard to Mr. Davidon's rights. Uppercu involved access by private litigants to depositions and exhibits sealed by consent decree in an earlier Immigration Act civil enforcement proceeding. Uppercu, not a party to the earlier proceeding, sought access to the sealed material in order to defend himself against a subsequent civil suit involving certain fees paid him during the prior litigation. Holding that the lower Court was duty-bound to allow access to the sealed matter, the Supreme Court observed that Uppercu's exclusion by the trial Court had "no judicial character but [was] simply an unauthorized exclusion of him by virtue of de facto power." 239 U.S. at 441:

> "...The right to evidence to be obtained from an existing object does not depend upon having an interest in the original cause, or upon the object being admissable or inadmissable in the cause for which it was prepared or upon the right or want of the public to examine the thing. The necessities of litigation and the requirements of justice found a new right of a wholly different kind. So long as the object physically exists, anyone needing it as evidence at a trial has a right to call for it, unless some exception is shown to the general rule." 239 U.S. at 440.

Appellee argued below, and the Court below relied upon, so-called "national security" considerations which allegedly

furnish the kind of "exception" referred to by the Court in Uppercu. We turn now to a consideration of this contention.

B. The Stipulated Protective Order Made No Reference to "National Security", And At Defendant-Appellant's Request Was Expressly Made Subject to Future Modification.

The protective order in question, whose text is set forth supra, p. 4 , was entered on May 1, 1972. The surveillance to which the order related had been first disclosed by Appellee in May 1971, prior to the commencement of trial in United States v. Ahmad, et al. While the wiretap itself was declared illegal prior to trial, see United States v. Ahmad, 335 F.Supp. 1198 (M.D. Pa. 1970), the trial Court postponed the requisite "taint" hearing, Alderman v. United States, 394 U.S. 165 (1965), until after completion of the trial. This hearing was held in May 1972, and the protective order was stipulated to by the parties in advance of the Alderman hearing.

The 1971 pre-trial disclosure of the fact of the wiretap was accompanied by sealed exhibits and by an affidavit by the then Attorney General John N. Mitchell purporting to "certify that it would prejudice the national interest to disclose the particular facts contained in the sealed exhibit and concerning this surveillance other than to the court, in camera." Affidavit

of John N. Mitchell," May 13, 1971, attached hereto at Appendix pp. 10A-11A. The truth and accuracy of this certification was never stipulated to by Appellant.

Furthermore, in ruling that the wiretap was unlawful, the previous trial Court declined to accept the Government request for an ex parte, in camera, submission, relying on Alderman v. United States, supra. See United States v. Ahmad, supra, 335 F.Supp. at 1200. Indeed, certain parts of the sealed material were made available to Appellant for purposes of the Alderman hearing.

In their application to the Court below, Appellant and Mr. Davidon expressly did not request that Judge Herman disclose to them the contents of the sealed exhibit submitted by the Government more than two years earlier. Indeed, Appellant assumes that the exhibits in question have already been returned to the Government and were not even in the possession of the lower court. The only relief sought was removal of the protective order, as the Government had asserted this order by way of avoiding their otherwise clear duty to file responsive pleadings in the sister federal forum. Confronted with this request, Judge Herman inexplicably held:

> "...The court takes no position on the government's desire for secrecy, but merely accepts the Attorney

> General's affidavit [as to "national security"] at face value and further accepts the stipulation as a binding agreement. Mrs. Berrigan [Appellant], through her counsel, agreed to the limitations of said agreement, and it is she who must show a viable reason to discontinue that accord. This she has failed to do." Slip Opinion at 3, Appendix 5A.

Ruling further that Mr. Davidon's request was "even more specious" than that of Appellant, and that the stipulation was thus binding as to him, the Court below in effect immunized the Government from all civil process as to a wiretap it had already declared illegal!

While the Government will no doubt assert a variety of substantive defenses in the Eastern District civil suit, they were in no way related to the issue before Judge Herman. Any resort to a so-called "national security" justification for not answering the civil complaint should properly be heard by the forum hearing the suit and not by him. Indeed, the stipulation entered into in May, 1972, makes no mention of "national security", and Appellant's counsel at that time in no way stipulated to the existence of such an evidentiary privilege.[4]

[4]Furthermore, while Appellees argued to Judge Herman that the non-disclosure stipulation should be read to imply Appellant's agreement on the "national security" question, it would seem certain that Appellant sought the non-disclosure protective order to safeguard her own privacy rights.

The lower court's finding that the stipulation was intended by Appellant to be binding upon the parties *in futuro* is totally without support in the record. The only discussion on the record by Appellant's counsel as to the terms of the order explicitly reserves to her the right to seek future modification, a right *agreed to* by the court:

> MR. MENAKER: Can we have the details of the protective order in the record?
>
> THE COURT: Well, you already said what they are, didn't you?
>
> MR. CONNELLY: That is correct. The stipulation would be, for approval by the Court, that the information disclosed by the Government to defense counsel not be disclosed or disseminated by them to anyone other than counsel of record for the defendants, or we will allow Defendant McAlister.
>
> MR. MENAKER: We would like to have it expanded to include all defendants.
>
> THE COURT: Why all the defendants?
>
> MR. MENAKER: They have a mutual interest in this case, Your Honor.
>
> MR. CONNELLY: Well, not at this point.
>
> THE COURT: Yes. I think that would be certainly premature.
>
> MR. MENAKER: There is still an indictment against them, Your Honor.
>
> MR. CONNELLY: Well, we will agree to Father Berrigan being added to that, just so they understand clearly that the order of the Court would preclude him from disclosing the same information.

MR. MENAKER: Your Honor, we would accept that, so that it is available to defense counsel and Defendants Father Philip Berrigan and Sister Elizabeth McAlister. However, we would like to reserve leave to object later on.

THE COURT: Well, later on, yes, if it becomes important. It may never become important.

MR. MENAKER: Yes, sir.

THE COURT: All right, adjourn Court until ten o'clock tomorrow morning.

And even assuming that Appellant had not reserved the right to seek modification of the order, she is still not bound in the civil suit by a concession made in another forum with reference only to that other case. cf. Gorham v. Mutual Benefit Health & Accident Association of Omaha, 114 F.2d 97,99 (4th Cir. 1940). Nor can she be bound by a stipulation made at a time when the present issues (i.e. - civil liability for unlawful wiretap) were not even before the Court. Bivins v. Board of Public Education and Orphanage for Bibb Co., 284 F.Supp. 888, 896-897 (M.D. Ga. 1967). In the absence of a clear showing that Appellant intended to or did voluntarily relinquish by stipulation her civil rights, the stipulation cannot be so interpreted. International Brotherhood of Boilermakers, Etc. v. Rafferty, 348 F.2d 307,314 (9th Cir. 1965). This is especially true in the face of a well defined statutory policy creating such rights, see International Brotherhood, supra, at 314,

and compare, Gelbard v. United States, 408 U.S. 41, 46-50 (1972), setting forth the legislative intent of Title III, of which 18 U.S.C. Sec. 2520 is a reflection. Cf. Brooklyn Bank v. O'Neill, 324 U.S. 697, 704-705 (1945), (holding that waiver of statutorily granted private rights will not be enforced where to do so would thwart the legislative policy those rights were intended to effectuate).

IV

CONCLUSION

For the above stated reasons, Appellant urges that the decision of the Court below be reversed so that her civil suit may proceed in the Eastern District of Pennsylvania.

Respectfully submitted,

/s/ Jack J. Levine
Jack J. Levine
1427 Walnut Street
Philadelphia, Pa. 19102

William Bender
175 University Avenue
Newark, New Jersey 07102

Attorneys for Appellant

IN THE
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 73-2094

RECEIVED
JAN 18 1974
U.S.C.A. 3RD. CIR.

UNITED STATES OF AMERICA

v.

EQBAL AHMAD
ELIZABETH McALISTER et al.
ELIZABETH McALISTER,
Appellant

RECEIVED & FILED
JAN 18 1974
THOMAS F. QUINN
Clerk

MOTION FOR LEAVE TO INTERVENE
AS APPELLANT

William Davidon, by his attorneys, respectfully requests leave to intervene as Appellant in the above matter, and in support of his request, represents as follows:

1. This appeal, whose circumstances are more fully described in the attached Affidavit of Counsel involves the denial by the Court below of an application made jointly by Appellant and Mr. Davidon.

2. The application requested that the lower court vacate a protective order entered in a previous criminal trial to which Mr. Davidon was not a party, United States v. Ahmad, et al., Crim. No. 14950, M.D. Pa. 1971.

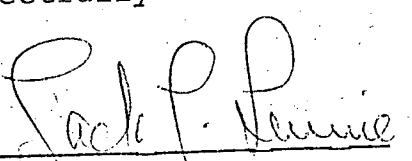
3. Mr. Davidon's application was captioned in the name of the former prosecution, and Mr. Davidon consequently was not officially designated as a party to that application proceeding. In addition, the opinion of the lower court was captioned and filed as part of the docket in the former prosecution and Mr. Davidon was therefore not technically a party entitled to appeal. However, the opinion of the court below effectively determines Mr. Davidon's rights. As is indicated by Appellant's Brief, the legal issues now before this Court on appeal, while not identical, are extremely closely related as to Appellant and Mr. Davidon.

4. While Mr. Davidon was not a party in the above-mentioned criminal case, he is presently, together with Appellant, a civil plaintiff in McAlister and Davidon v. Kleindienst, et al., Civ. No. 72-1977, E.D. Pa., pending. The procedural nexus between this civil suit and the former criminal prosecution (see Affidavit of Counsel attached hereto) is such that were this Court to disallow Mr. Davidon's request to intervene and rule against Appellant on the merits, the civil suit would effectively be terminated and Mr. Davidon would become an Appellant in his own right in this Court with regard to the civil suit.

5. In the event Mr. Davidon is permitted to intervene, he relies on Appellant's Brief, attached hereto, in support of his position on the merits.

WHEREFORE, in the interest of judicial economy Mr. Davidon respectfully requests leave to intervene as Appellant in this matter.

Respectfully submitted,



Jack J. Levine
1427 Walnut Street
Philadelphia, Pa. 19102

William Bender
175 University Avenue
Newark, New Jersey 07102

Attorneys for William Davidon

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1273373-0

Total Deleted Page(s) = 56
Page 3 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 26, p.1-2/NSD;
Page 4 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 26, p.1-2/NSD;
Page 5 ~ Referral/Consult;
Page 6 ~ Referral/Consult;
Page 7 ~ Referral/Consult;
Page 8 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 27, p.1/NSD;
Page 9 ~ Referral/Consult;
Page 10 ~ Referral/Consult;
Page 11 ~ Referral/Consult;
Page 12 ~ Referral/Consult;
Page 13 ~ Referral/Consult;
Page 21 ~ Duplicate - to 62-HQ-115389-Section 2-Serial 30;
Page 22 ~ Duplicate - to 62-HQ-115389-Section 2-Serial 30;
Page 50 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 37, p.3/NSD;
Page 54 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 38, p.3-5/NSD;
Page 55 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 38, p.3-5/NSD;
Page 56 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 38, p.3-5/NSD;
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Page 66 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 38, p.11-18/NSD;
Page 67 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 38, p.11-18/NSD;
Page 68 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 38, p.11-18/NSD;
Page 69 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 38, p.11-18/NSD;
Page 93 ~ b6; b7C; b7E;
Page 96 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 38, p.42-55/NSD;
Page 97 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 38, p.42-55/NSD;
Page 98 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 38, p.42-55/NSD;
Page 99 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 38, p.42-55/NSD;
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Page 101 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 38, p.42-55/NSD;
Page 102 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 38, p.42-55/NSD;

Page 103 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 38, p.42-55/NSD;
Page 104 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 38, p.42-55/NSD;
Page 105 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 38, p.42-55/NSD;
Page 106 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 38, p.42-55/NSD;
Page 107 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 38, p.42-55/NSD;
Page 108 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 38, p.42-55/NSD;
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Page 148 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 44/NSD;
Page 149 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 44/NSD;
Page 150 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 45/NSD;
Page 151 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 45/NSD;
Page 152 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 46/NSD;
Page 153 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 46/NSD;
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Page 158 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 47/NSD;
Page 159 ~ Referral/Consult;
Page 160 ~ Referral/Consult;
Page 161 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 49/NSD;
Page 162 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 49/NSD;
Page 163 ~ Referral/Direct - 62-HQ-115389-Section 2-Serial 50/NSD;

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OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI (62-115289) DATE: 8/26/74

FROM SAC, PHILADELPHIA (62-5421) (P)

SUBJECT: Sister ELIZABETH MC ALISTER,
ET AL
v.
RICHARD G. KLEINDIENST,
ET AL
CIVIL ACTION NUMBER 72-1977
EDPA

Re Philadelphia airtel to Bureau dated 3/28/74, with enclosures.

Enclosed for the Bureau and attached for the Philadelphia copy are xeroxed copies of the following items, which will be filed presently by AUSA [redacted]:

"Notice of Intention to File Motion", Motion Foreign Order Modifying the Order of the Court dated 9/12/73, Memorandum of Law in Support of the Motion and an Order pursuant to the above Motion.

On 8/19/74, the docket at the U.S. District Court, EDPa., Philadelphia, Pa., was reviewed and the following recent entries noted:

Item 29: 4/25/74, plaintiff's monthly report on status of case, FILED.

Item 30: 5/24/74, defendant's monthly report on status of case, FILED (by Attorney [redacted].

(3) - Bureau (62-115289) (Enc. 3)
1 - Philadelphia (62-5421)

WCF: smn
(4)

REC-36 62-115-3-89

ENCLOSURE
ENC. BEHIND FILE

SI-117

12 AUG 29 1974

LEGAL COUNSEL

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

50105-103 FBI SEP 1 2 1974

Item 31: 5/30/74, plaintiff's monthly report to Judge POWERS from plaintiff's Attorney [redacted], FILED. b6 b7C

Item 32: 6/27/74, plaintiff's monthly report on status of case dated 6/25/74, FILED.

Item 33: 6/27/74, defendant's monthly report on status of case dated 6/26/74, FILED.

Philadelphia is maintaining contact with AUSA [redacted] for progress of captioned case. b6 b7C

The enclosed documents were provided by AUSA [redacted], although, they have not as yet been filed.

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI (62-115389) DATE: 10/31/74
(ATTN: OFFICE OF LEGAL COUNSEL)

FROM : SAC, PHILADELPHIA (62-5421) (P)

SUBJECT: Sister ELIZABETH MC ALISTER, ET AL v.
RICHARD G. KLEINDIENST, ET AL
CIVIL ACTION #72-1977
EDPA
OO: PHILADELPHIA

Re Philadelphia letter to Bureau dated 8/26/74.

On 10/31/74, the Docket at the Clerk's Office, USDC, EDPA., reflected the following recent entries in connection with captioned law suit:

Item 34: 8/19/74, defendants' monthly report on status of case, filed.

Item 35: 8/23/74, defendants' motion for order modifying the order entered on 9/12/73, etc., notice, memorandum of law in support thereof, filed.

Item 36: 8/26/74, plaintiffs' memorandum in opposition to defendants' motion to modify order of 9/12/73, filed.

Item 37: 8/26/74, plaintiffs' motion for an order pursuant to civil rules 8(d) and 37(b)(2) declaring that unanswered allegations of the complaint be deemed established, notice and memorandum in support thereof, filed.

Item 38: 8/26/74, defendants' opposition to plaintiffs' motion pursuant to rules 8(d) and 37(b)(2), federal rules of civil procedure, filed.

Item 39: 8/29/74, defendants' monthly report on the status of the case, filed.

Item 40: 9/27/74, defendants' monthly report on the status of the case, filed.

REC-1 62-115389-29

CC 56-10

b6
b7C

(2) - Bureau (62-115389)
1 - Philadelphia (62-5421)

WCF/ljw
(3)

FBI
OCT 31 1974
LEGAL COUNSEL

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

5010-110

PH 62-5421

Item 41: 10/8/74, defendants' opposition to plaintiffs' motion for an order requiring defendants' to answer plaintiffs' first interrogatory, filed.

Item 42: 10/8/74, plaintiffs' motion and argument for an order requiring defendants' to answer plaintiffs' first interrogatory, and notice thereof, filed.

Item 43: 10/22/74, plaintiffs' request for production of documents filed.

Item 44: 10/22/74, plaintiffs' notice of deposition of MASON SMITH, filed.

Item 45: 10/27/74, defendants' monthly report on status of discovery, filed.

Philadelphia is maintaining contact with AUSA [redacted], EDPA., and the Clerk, U. S. District Court, EDPA., for current status of captioned law suit. b6 b7C

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI (62-115389) **DATE:** 1/2/75
(Attn: Legal Counsel Division)

FROM : SAC, PHILADELPHIA (62-5421) (P)

SUBJECT: SISTER ELIZABETH MC ALISTER,
ET AL
v.
RICHARD G. KLEINDIENST,
ET AL
CIVIL ACTION NUMBER 72-1977
EDPA
(OO:Philadelphia)

Re Philadelphia letter to Bureau dated 10/31/74.

On 12/26/74, the docket at the clerk's office, U.S. District Court, EDPA, showed the following recent entries for captioned law suit, civil docket number 72-1977:

Item 46: 11/7/74, report of settlement conference of 11/6/74, filed.

Item 47: 12/5/74, plaintiffs' monthly report on status of case, filed.

Item 48: 12/5/74, memordandum of Judge TROUTMAN and order that plaintiffs' motion to compel answers to plaintiffs' first interrogatories is granted, etc, filed. 12/6/74, entered and copies mailed.

EX 104 REC-9 62-115389-30

Item 49: 12/5/74, memorandum of Judge TROUTMAN and order that defendants' motion to modify order of 9/12/73, is granted and defendants are compelled only to admit or deny that plaintiff was incidentially overheard on a national security surveillance conducted without a court order, etc., filed. 12/6/74, entered and copies mailed.

lee 5640

(3) - Bureau (62-115389)
1 - Philadelphia (62-5421)

mc Alister

15 JAN 13 1975

WCF:ACC (4)

4 JAN 24 1975

LEGAL COUNSEL

b6
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5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Item 50: 12/5/74, order that plaintiffs' motion to compel answers to first interrogatories is denied without prejudice to its renewal in accordance with memorandum and opinion of 12/5/74, filed. 12/6/74, entered and copies mailed.

Item 51: 12/5/74, order that order of 9/12/74, is stayed pending plaintiffs' application to U.S. District Court, Middle District of Pennsylvania to modify or vacate protective order entered 5/1/72, etc., filed. 12/6/74, entered and copies mailed.

Item 52: 12/17/74, amendment to answer to complaint, filed.

Philadelphia is maintaining contact with AUSA [redacted], EDPA, and the office of the clerk, U.S. District Court, EDPA, for current status of captioned law suit. b6 b7C

airtel

1/17/75

To: SAC, Philadelphia (62-5421)

1 - Mr. Wannall
2 - Mr. Mintz
1 - [redacted] b6 b7C

From: Director, FBI (62-115389)

SISTER ELIZABETH McALISTER, et al., v.
RICHARD G. KLEINDIENST, et al.
(U.S.D.C., E.D. PA.)
CIVIL ACTION NO. 72-1977

Reurlet to Bureau dated 1/2/75.

Referenced letter reported the results of a docket check in the United States District Court for the Eastern District of Pennsylvania regarding captioned civil action. A review of the files at FBIHQ discloses that we are not yet in possession of items 48 through 52 listed in your letter. Philadelphia is requested to obtain two copies each of these documents and forward them to FBIHQ so as to enable us to complete our file in this matter.

NOTE: Captioned civil action was filed by Sister Elizabeth McAlister and William Davidon, who allege that they were the subjects of an illegal electronic surveillance. Sister McAlister was overheard during the course of a warrantless national security surveillance and this information was made known to her during criminal proceedings in the East Coast Conspiracy to Save Lives (ECCSL) prosecution in Harrisburg, Pennsylvania.

RCB:vlb
(7)

ENCLOSURE

EX-117

REC 68 62-115389-31

5 JAN 20 1975

Dir. ___
AD Adm. ___
AD Inv. ___
Dir.: ___
___ Syst. ___
___ fairs ___
___ Com. ___

MAILED 9
JAN 17 1975
FBI

54 JAN 24 1975

MAIL ROOM ☑ TELETYPE UNIT ☐

GPO 954-546

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI (62-115389) DATE: 1/31/75

FROM : SAC, PHILADELPHIA (62-5421) (P)

SUBJECT: SISTER ELIZABETH MC ALISTER,
ET AL V.;
RICHARD G. KLEINDIENST,
ET AL;
(USDC, EDPA)
CIVIL ACTION #72-1977

Re Bureau airtel to Philadelphia, 1/17/75 and Philadelphia letter to Bureau, 1/2/75.

Enclosed for the Bureau as requested in referenced airtel are two copies each of items numbered 48 through 52 in connection with captioned lawsuit.

William Davidon
PA

REC-2 62-115389-32

EX-104

7 FEB 12 1975

ENCLOSURE
"ENCLOSURE ATTACHED"

LEGAL COUNSEL

2 - Bureau (62-115389) (Enc. 10)
1 - Philadelphia (62-5421)
WCF/jch
(3)

[redacted]

b6
b7C

56 FEB 21 1975

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

ENCLOSURE TO BUREAU FROM PHILADELPHIA

Re: SISTER ELIZABETH MC ALISTER, ET AL V;
RICHARD G. KLEINDIENST, ET AL;
USDC, EDPA CIVIL ACTION #72-1977

Contents: 2 cps. each of the items numbered 48 through 52 in connection with lawsuit

Bufile # 62-115389

PHfile # 62-5421

LETTER dtd 1-31-75

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SISTER ELIZABETH McALISTER, et al., Plaintiffs, v. RICHARD G. KLEINDIENST, et al., Defendants.	)	Civil Action No. 72-1977

AMENDMENT TO THE ANSWER TO COMPLAINT

Come now the defendants, by their undersigned attorneys, and pursuant to the Order of this Court, dated December 5, 1974, modifying its Order of September 12, 1973, and in further answer to paragraph thirteen (13) of the complaint herein, say:

13. Defendants admit that the plaintiff McAlister was incidentally overheard on a national security surveillance conducted without a court order.

Respectfully submitted,

HENRY E. PETERSEN
Assistant Attorney General

ROBERT E. J. CURRAN
United States Attorney

ROBERT L. KEUCH
Attorney, Department of Justice

CARMEN C. NASUTI
Assistant United States Attorney

LARRY L. GREGG
Attorney, Department of Justice
Washington, D.C. 20530
Telephone: 202/739-3227

Attorneys for Defendant Mitchell in his former official capacity and for Defendants Kleindienst, Gray, Smith, Durham and Jamieson.

ee-11538-39

a national security surveillance conducted without a court order, said answer to be filed within ten (10) days from the date hereof.

IT IS FURTHER ORDERED that plaintiff's motion for sanctions pursuant to R.C.P.8(d) and 37(b)(2) is DENIED.

IT IS FURTHER ORDERED that defendants' request for leave to file a motion to dismiss or, in the alternative, for judgment on the pleadings, is GRANTED, said motion, with supporting memorandum, to be filed within forty (40) days from the date hereof.

IT IS FURTHER ORDERED that defendants' motion for a stay of all discovery pending disposition of said motion to dismiss or, in the alternative, for judgment on the pleadings, is GRANTED.

J.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SISTER ELIZABETH McALISTER	:	
	:	
v.	:	
	:	
RICHARD G. KLIENDIENST, individually and as Attorney General of the United States	:	
	:	
L. PATRICK GRAY, III, individually and as Acting Director, Federal Bureau of Investigation	:	
	:	
JOHN N. MITCHELL, individually and as former Attorney General of the United States	:	CIVIL ACTION NO. 1977
	:	
MASON SMITH, individually and as Special Agent, Federal Bureau of Investigation	:	
	:	
CHARLES DURHAM, individually and as Special Agent, Federal Bureau of Investigation	:	
	:	
JOSEPH JAMIESON, individually, and as Special Agent, Federal Bureau of Investigation	:	
	:	
JOHN DOE and RICHARD ROE	:	

O R D E R

TROUTMAN, J.

AND NOW, this 5th day of December, 1974, IT IS ORDERED that defendants' motion to modify the order of this Court dated September 12, 1973, is GRANTED and defendants are compelled only to admit or deny that plaintiff was incidentally overheard on

non-retroactivity of the decision of the Supreme Court in United States v. United States District Court, 407 U.S. 297 (1972). We shall grant said motion upon a finding that it is not likely to unnecessarily delay the ultimate disposition of the case.

In the interest of simplicity and clarity, we shall enter separate orders as to each plaintiff.

basis of convincing evidence, if any, seek an appropriate amendment of said protective order conditioned upon such terms of confidentiality as may be deemed necessary, to the extent permissible under the guidelines suggested by the Circuit Court and consistent with the national interest.

As stated by Judge Herman "nothing in the federal rules on discovery encourages courts to make public the contents of documents considered to be of a sensitive security status".[10] To impose on the defendants the sanctions prescribed by R.C.P.8(d) and 37(b)(2) and thus force the defendants to involuntarily seek to vacate or amend the protective order would create a non-adversary proceeding whereas our judicial system is historically and currently based primarily upon adversary proceeding and the existence of a live controversy between the parties. The possible existence of a question of national interest or security fairly requires no less. In the pre-trial proceedings incident to the criminal prosecution from which this civil action is a "fall out", Judge Herman said:

> "An in-camera examination of logs of such conversations by the Court is not a valid substitute for an adversary hearing thereon * * *."[11]

Finally, at oral argument, defendants sought leave to file, at this early stage of this litigation, a "dispositive" motion or motion for judgment on the pleadings as to the plaintiff, Mrs. Berrigan, asserting (a) official immunity, (b) non-applicability of 18 USC§2520 and (c)

[10] See page 3 of Judge Herman's order dated October 24, 1973.

[11] See United States v. Ahmad, 335 F. Supp. 1198, 1200 (1971).

seek to amend or vacate said order. A civil plaintiff assumes certain proper legal burdens in the pursuit of his cause. He should not and cannot seek such drastic sanctions against the defendants upon newspaper reports, the location of certain of the defendants and his absence from the area during the Christmas holidays.

Moreover, he has already appeared before Judge Herman who has labeled as "speculation" Davidon's contention that he "knows" he was the "target" of the surveillance in question. Nor has he, according to Judge Herman, "disputed in any way Mitchell's assertion that revelation of the contents (of the wiretap logs) would breach national security." [9] Finally, he filed no appeal with the Circuit Court thus precluding the review of his case on the merits. In the light of these observations the allegations contained in his complaint are less than persuasive on the present record and insufficient to justify the drastic sanctions prescribed by R.C.P.8(d) and 37(b)(2).

We do not suggest that he is or is not entitled to relief from the protective order. That question is not before us. However, we do suggest that insofar as plaintiff Davidon is concerned, it would be a gross injustice, at this time and on the record before us, to impose upon the defendants the obligations incident to our order of September 12, 1973 compelling a full answer or suffer the burden incident to the sanctions sought by plaintiffs, pursuant to R.C.P.8(d) and 37(b)(2).

Rather, we think that justice dictates that it is Davidon who should approach Judge Herman with more than "speculation" and on the

9 See pages 3 and 4 of Judge Herman's order dated October 24, 1973.

of operation" due to the absence of the target, that therefore he was the target.[8] It is noted that the period in question encompassed the Christmas season when thousands of residents were undoubtedly absent the greater Philadelphia area. To suggest that his absence during such period plus newspaper reports shifts to the defendants the burden of seeking to vacate the protective order in order to answer such broad and conclusory allegations is asking too much, considering the Attorney General's affidavit that national interest is involved and the present reluctance of the defendants to voluntarily

[8] Paragraph 15 of his complaint provides as follows:

"15. Plaintiff DAVIDON has to this date not been formally advised by the government that his conversations were monitored. He alleges upon information and belief that he was the target of the surveillance on the following grounds:

(a) The target of the surveillance in question has been acknowledged by the government, through the testimony of Defendant SMITH, to have been an unindicted alleged co-conspirator. This acknowledgment was made during the course of post-trial proceedings in the above mentioned criminal case. (Testimony of MASON SMITH at Hearing on Electronic Surveillance, May 2, 1972, at p. 14, United States v. Ahmad et al., Crim. No. 14950, M.D.Pa. 1971.)

(b) Defendants SMITH, DURHAM and JAMIESON, the individuals responsible for and with access to the logs of the surveillance in question were employed in the City of Philadelphia, and the said logs were housed in their office in that City.

(c) Plaintiff DAVIDON is the only unindicted alleged co-conspirator in the above criminal case who lived in or near Philadelphia at the time of the surveillance in question.

(d) Newspaper reports at the time the disclosure of surveillance as to Plaintiff McALISTER was made by the government stated that Plaintiff DAVIDON was the subject of the wiretap which monitored her conversations. The source of the information which led to these press accounts is unknown to Plaintiffs or their attorneys.

(e) Defendant SMITH testified during the course of the above mentioned post-trial proceedings in Harrisburg that the wiretap was 'out of operation from December 24, 1970 to January 2, 1971 ... because the subject or target, whatever you call it, was not at the premises.' During this period plaintiff DAVIDON was visiting relatives in the Western and Midwestern part of the United States. Hearing Transcript, supra, at p. 31."

> lifted as to Mrs. Berrigan. The concession of the defendants in this court that they can, and therefore must, file an answer, will enable her to present a prima facie case of an illegal overhearing on two separate occasions. Thus, Judge Herman's order will be affirmed on the basis that no need exists at this point to vacate the protective order."

By way of footnote, the Court observed that "If in the future any need should arise for a modification of the stipulation, another application can be presented to Judge Herman." [7]

Thus, as to Mrs. Berrigan, the issue has, for the moment, been resolved as the defendants have agreed in accordance with the ruling of the Circuit Court to file appropriate answer in accordance with their representations to the Circuit Court. Accordingly, sanctions would be inappropriate at this time and as to the plaintiff, Berrigan, a motion pursuant to R.C.P.8(d) and 37(b)(2), that unanswered allegations of the complaint be deemed established for the purposes of this action, will be denied.

As to plaintiff Davidon a different situation prevails. Because of his failure to appeal, the merits of his case, as regards his motion to vacate the protective order, have not been resolved. He was not indicted and there have been no known disclosures to him of any electronic surveillance.

In paragraph 15 of his complaint, he alleges that because the named F.B.I. defendants were located in Philadelphia and the records kept there, because of newspaper reports, because he lived in a suburban Philadelphia area and was absent during the period December 24, 1970, to January 2, 1971, the very period when surveillance was "out

[7] See Footnote 1, supra.

to Mrs. Berrigan, but subject to a protective order providing for disclosure only to "defense counsel of record or defendants Philip Berrigan and Elizabeth McAlister". Davidon was not a party to such order.

Faced with such order, the defendants in the instant case asserted inability to answer all of the allegations of the complaint as directed by this Court on September 12, 1973, without violating said order. To resolve the impasse, Mrs. Berrigan and Davidon jointly filed a petiton with Judge Herman seeking to vacate the protective order. On October 24, 1973, Judge Herman refused to lift the protective order. Mrs. Berrigan appealed the order. Davidon failed to appeal, but later intervened and, on appeal, adopted the brief filed by Mrs. Berrigan. Since Davidon did not appeal the order as it applied to him, the Circuit Court considered "the merits of this case only as applied to Mrs. Berrigan" [5] and as to her affirmed the order of Judge Herman upon the concession made by defendants' counsel, at oral argument, that they "could answer the complaint of Mrs. Berrigan to admit that she was overheard as a result of a surveillance conducted without the authority of a court order." [6] The Court reasoned as follows:

> "* * * Since Judge Herman found there were two such conversations intercepted in the period from November 24, 1970 to January 6, 1971 and that they were illegal, there is nothing to prevent such admissions by the defendants. These facts were reported in the written opinion of the district court after the taint hearing had been concluded, and thus, there is no disclosure problem.
>
> "At this stage of the litigation, therefore, there has been no need shown to have the protective order

5 See Footnote 1, supra.

6 See Footnote 4, supra.

In a complaint filed on October 10, 1972, they seek damages pursuant to 18 U.S.C.§2520,[2] against Richard G. Kleindienst, then Attorney General of the United States; L. Patrick Gray, then Acting Director of the F.B.I.; John N. Mitchell, former attorney General; and several named and unnamed agents of the F.B.I., alleging that they were the subjects of illegal wiretaps.

This suit is described as a "fallout from a closed criminal proceeding" in which Mrs. Berrigan was a defendant and Davidon an unindicted co-conspirator.[3] During the pre-trial stages of the criminal case, Mrs. Berrigan learned that she may have been overheard by electronic surveillance and Judge R. Dixon Herman (M.D.Pa.), who presided over the case, found that there had been an unauthorized and illegal wiretap.[4] Transcripts of the conversations were made available

2 "Any person whose wire or oral communication is intercepted, disclosed, or used in violation of this chapter shall (1) have a civil cause of action against any person who intercepts, discloses, or uses, or procures any other person to intercept, disclose, or use such communications, and (2) be entitled to recover from any such person--

"(a) actual damages but not less than liquidated damages computed at the rate of $100 a day for each day of violation or $1,000, whichever is higher;

"(b) punitive damages; and

"(c) a reasonable attorney's fee and other litigation costs reasonably incurred.

"A good faith reliance on a court order or legislative authorization shall constitute a complete defense to any civil or criminal action brought under this chapter or under any other law."

3 See Footnote 1, supra.

4 See 335 F. Supp. 1198 (M.D.Pa.1971). The electronic surveillance apparently had been performed without a court order in accordance with a Presidential determination that national security was involved. Judge Herman relied on the decision of the Court of Appeals in United States v. United States District Court, 444 F. 2d 651 (6th Cir. 1971), later affirmed by the United States Supreme Court at 407 U.S. 297 (1972) in deciding that the wiretap was illegal.

U.S. ATTY.

[redacted] b6 b7C

72-3473

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SISTER ELIZABETH McALISTER
WILLIAM DAVIDON

v.

RICHARD G. KLEINDIENST, individually and as Attorney General of the United States

L. PATRICK GRAY, III, individually and as Acting Director, Federal Bureau of Investigation

JOHN N. MITCHELL, individually and as former Attorney General of the United States

MASON SMITH, individually and as Special Agent, Federal Bureau of Investigation

CHARLES DURHAM, individually and as Special Agent, Federal Bureau of Investigation

JOSEPH JAMIESON, individually and as Special Agent, Federal Bureau of Investigation

JOHN DOE and RICHARD ROE

U.S. ATTORNEY
E.D. OF PA.
PHILA. PA. 19107
DEC 6 11 30 AM '74

CIVIL ACTION NO. 72-1977

MEMORANDUM AND ORDER

TROUTMAN, J. DECEMBER 5, 1974

This "Tale of Two Districts" [1] involves two plaintiffs, Sister Elizabeth McAlister, now Mrs. Philip Berrigan, of the State of New York, and William Davidon, of Haverford, Pennsylvania, a suburb of the City of Philadelphia.

1 See United States v. Ahmad, 499 F. 2d 851 (3rd Cir. 1974)

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WILLIAM DAVIDON	:
v.	:
RICHARD G. KLEINDIENST, individually and as Attorney General of the United States	:
L. PATRICK GRAY, III, individually and as Acting Director, Federal Bureau of Investigation	:
JOHN N. MITCHELL, individually and as former Attorney General of the United States	:
MASON SMITH, individually and as Special Agent, Federal Bureau of Investigation	: CIVIL ACTION NO. 72-1977
CHARLES DURHAM, individually and as Special Agent, Federal Bureau of Investigation	:
JOSEPH JAMIESON, individually, and as Special Agent, Federal Bureau of Investigation	:
JOHN DOE and RICHARD ROE	:

O R D E R

TROUTMAN, J.

AND NOW, this 5th day of December , 1974, IT IS ORDERED that plaintiff's motion to compel answers to plaintiff's first interrogatories is DENIED without prejudice to its renewal in accordance with our Memorandum and Order dated December 5, 1974.

J.

are evident from Judge Herman's Memorandum and Order dated October 24, 1973, the opinion of the Circuit Court filed June 26, 1974,[2] and the Memorandum and Order of this Court dated We shall not repeat.

Suffice it to say that the present motion to compel the defendants to answer plaintiffs' first interrogatories was apparently anticipated by the Circuit Court in its opinion dated June 26, 1974, where at page 7, speaking of the plaintiff McAlister (now Berrigan) it said:

> "It may well be that the defendants in the civil case will be those who next seek to have the order lifted because of the possibility that the Eastern District will exercise the broad default powers conferred by Fed. R. Civ. P. 8(d) and 37(b)(2). See the procedures followed in United States v. Reynolds, 10 F.R.D. 468 (E.D.Pa.1950), aff'd. 192 F. 2d 987 (3d Cir.1951). Indeed, we feel it should have been the defendants who presented the petition to the Middle District in the first instance. * * *"

Said language suggests that we would not be in error in unconditionally ordering that defendants answer all interrogatories submitted by Mrs. Berrigan thus forcing defendants to apply to Judge Herman for amendment, modification or revocation of the protective order here involved.

However, in our Memorandum and Order of we suggested that justice would be better served in an adversary proceeding before Judge Herman. We also pointed out that Mrs. Berrigan's case is not in the same posture as that of plaintiff Davidon.

Accordingly, we shall enter separate orders as to each plaintiff.

[2] See Footnote 1, supra.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SISTER ELIZABETH McALISTER WILLIAM DAVIDON	:
v.	:
RICHARD G. KLEINDIENST, individually and as Attorney General of the United States	:
L. PATRICK GRAY, III, individually and as Acting Director, Federal Bureau of Investigation	:
JOHN N. MITCHELL, individually and as former Attorney General of the United States	: CIVIL ACTION NO. 72-1977
MASON SMITH, individually and as Special Agent, Federal Bureau of Investigation	:
CHARLES DURHAM, individually and as Special Agent, Federal Bureau of Investigation	:
JOSEPH JAMIESON, individually and as Special Agent, Federal Bureau of Investigation	:
JOHN DOE and RICHARD ROE	:

MEMORANDUM AND ORDER

TROUTMAN, J. DECEMBER 5, 1974

The history of this case,[1] the facts and its present status

[1] Labeled a "Tale of Two Districts" - see United States v. Ahmad, 499 F. 2d 851 (3rd Cir. 1974).

subject to such terms of confidentiality as may be deemed necessary, to the extent permissible under the guidelines suggested by the Circuit Court and consistent with the national interest and is FURTHER STAYED pending the filing and disposition of defendants' motion to dismiss or, in the alternative, for judgment on the pleadings.

J.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SISTER ELIZABETH McALISTER	:
v.	:
RICHARD G. KLEINDIENST, individually and as Attorney General of the United States	:
L. PATRICK GRAY, III, individually and as Acting Director, Federal Bureau of Investigation	:
JOHN N. MITCHELL, individually and as former Attorney General of the United States	:
MASON SMITH, individually and as Special Agent, Federal Bureau of Investigation	: CIVIL ACTION NO. 72-1977
CHARLES DURHAM, individually and as Special Agent, Federal Bureau of Investigation	:
JOSEPH JAMIESON, individually, and as Special Agent, Federal Bureau of Investigation	:
JOHN DOE and RICHARD ROE	:

O R D E R

TROUTMAN, J.

AND NOW, this 5th day of December, 1974, IT IS ORDERED that plaintiff's motion to compel answers to plaintiffs' first interrogatories is GRANTED; IT IS FURTHER ORDERED that this order is STAYED pending plaintiff's application to Judge Herman for amendment, modification or revocation of said protective order

pursuant to R.C.P. 8(d) and 37(b)(2) is DENIED without prejudice to its subsequent renewal in accordance with memorandum filed herewith.

J.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WILLIAM DAVIDON

v.

RICHARD G. KLEINDIENST, individually and as Attorney General of the United States

L. PATRICK GRAY, III, individually and as Acting Director, Federal Bureau of Investigation

JOHN N. MITCHELL, individually and as former Attorney General of the United States

MASON SMITH, individually and as Special Agent, Federal Bureau of Investigation

CHARLES DURHAM, individually and as Special Agent, Federal Bureau of Investigation

JOSEPH JAMIESON, individually and as Special Agent, Federal Bureau of Investigation.

JOHN DOE and RICHARD ROE

CIVIL ACTION NO. 72-1977

O R D E R

TROUTMAN, J.

AND NOW, this 5th day of December, 1974, the order of this Court dated September 12, 1973, is STAYED pending plaintiff's application to the United States District Court for the Middle District of Pennsylvania to modify or vacate protective order entered May 1, 1972, in accordance with memorandum filed herewith and until relief from said order is obtained or until this Court otherwise directs.

IT IS FURTHER ORDERED that plaintiff's motion for sanctions

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI (62-115389) DATE: 3/5/75
(ATTN.: LEGAL COUNSEL DIVISION)

FROM : SAC, PHILADELPHIA (62-5421) (P)

SUBJECT: SISTER ELIZABETH MC ALISTER;
ET AL
v. RICHARD G. KLEINDIENST;
ET AL
CIVIL ACTION NUMBER 72-1977
EDPa.
(OO: PHILADELPHIA)

Re Philadelphia letters to the Bureau, dated 1/2/75 and 1/31/75.

On 2/28/75, the docket of the Clerk's Office, U.S. District Court (USDC), Eastern District of Pennsylvania (EDPa.), showed the following recent entries for captioned law suit, Civil Action Number 72-1977:

Item 53: 1/14/75, Defendants' monthly report on status of case, filed.

Item 54: 1/15/75, defendants' motion to dismiss, or in the alternative, for judgement on the pleadings, notice of, and memorandum in part thereof, filed.

Item 55: 1/30/75, defendants' monthly report on the status of discovery, filed.

FX-112 REC-4 62-115389-33

Item 56: 2/18/75, order that this action is re-assigned from the calendar of Judge TROUTMAN to the calendar of Judge CAHN, for all further proceedings, filed.

On 2/19/75, entry and copies mailed.

MAR 10 1975

3 - Bureau (62-115389)
1 - Philadelphia (62-5421)

WCF:deb
(4)

54
58 MAR 17 1975

LEGAL COUNSEL

b6
b7C

5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

PH 62-5421

Item 57: 2/26/75, stipulation and order extending time for plaintiffs to respond to defendants ~~as of~~ motion to dismiss, or in the alternative, for judgement on the pleadings, until 3/4/75, filed.

Philadelphia is maintaining contact with AUSA [redacted], EDPa., and the Office of the Clerk, USDC, EDPa., for current status of captioned law suit. b6 b7C

TIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO RJB: wrt DIRECTOR, FBI (62-115389)
(ATTN.: LEGAL COUNSEL DIVISION)

DATE: 6/10/75

FROM : SAC, PHILADELPHIA (62-5421) (P)

SUBJECT: SISTER ELIZABETH MC ALLISTER, ET AL v.
RICHARD G. KLEINDIENST, ET AL, EDPA,
CIVIL ACTION # 72-1977
(OO: PHILADELPHIA)

Re Philadelphia letter to Bureau dated 3/5/75.

On 5/27/75, the docket at USDC Clerk's Office, EDPA, bore the following recent entries under civil action number 72-1977:

Item 58: 3/4/75, plaintiffs' memorandum answering defendants' motion to dismiss, or in the alternative, for judgment on the pleadings filed.

Item 59: 5/14/75, defendants' reply to plaintiffs' opposition to defendants' motion to dismiss, or in the alternative, for judgment on the pleadings filed.

Philadelphia is maintaining contact with AUSA [redacted], EDPA, and USDC Clerk's Office, EDPA, for current status of captioned lawsuit.

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b7C

REC-9

62-115389-34

SI 104

5 JUN 16 1975

3 - Bureau (62-115389)
1 - Philadelphia (62-5421)
WCF:sis
(4)

Room 5640

[redacted]

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0 JUN 25 1975

5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI (62-115389)
(ATTN.: LEGAL COUNSEL DIVISION)

DATE: 8/18/75

FROM : SAC, PHILADELPHIA (62-5421) (P)

SUBJECT: SISTER ELIZABETH MC ALISTER, ET AL
v. RICHARD G. KLEINDIENST, ET AL;
USDC, EDPA; CIVIL ACTION # 72-1977
(OO: PHILADELPHIA)

Re Philadelphia letter to Bureau dated 6/10/75.

On 8/13/75, the docket at the Clerk's Office, USDC, EDPA, bore no recent entries under Civil Action # 72-1977.

Philadelphia is maintaining contact with AUSA [redacted], EDPA, and Clerk's Office, USDC, EDPA, for current status of captioned lawsuit.

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REC 68 62-115389-35

EX 104

3 AUG 20 1975

(2)- Bureau (62-115389)
1 - Philadelphia (62-5421)
WCF:sis
(3)

[redacted]

b6
b7C

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

57 AUG 28 1975

Assistant Attorney General
Criminal Division

Director, FBI

January 23, 1976

1 - Mr. Wannall
1 - Mr. McDermott
1 - Mr. Mintz
1 - [redacted] b6 b7C
1 - Legal Research

**SISTER ELIZABETH MC ALISTER, et al., v. RICHARD G. KLEINDIENST, et al.
(U.S.D.C., E.D. PENNSYLVANIA)
CIVIL ACTION FILE NO. 72-1977**

Your memorandum of January 5, 1976, requested that [redacted], a research analyst in your Special Litigation Section, be granted access to certain specific FBI Headquarters and Philadelphia field office files for the purpose of deriving information which will aid you in your defense of the captioned civil action. b6 b7C

You are hereby advised that [redacted] may examine the files you specified in your memorandum at FBI Headquarters and the Philadelphia field office subject to the proviso that these files be examined in Bureau space and under the general supervision of Bureau personnel. Appropriate personnel at FBI Headquarters and this Bureau's Philadelphia field office have been advised that access to the files in question has been granted and it is respectfully requested that a representative of your division contact this Bureau's Legal Counsel Division prior to the actual examination of the files either at FBI Headquarters or Philadelphia so that the files in question can be retrieved for review by [redacted]. b6 b7C

REC-57 6[illegible]-1153 Enc. 36

JAN 27 1976

NOTE: Based on Legal Counsel Division memorandum to Mr. Adams dated 1/20/76.

RCB:kjw
(8)

MAILED 7
JAN 26 1976
FBI

Assoc. Dir. ____
Dep. AD Adm. ____
Dep. AD Inv. ____
Asst. Dir.:
Admin. ____
Comp. Syst. ____
Ext. Affairs ____
Files & Com. ____
Gen. Inv. ____
Ident. ____
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Plan. & Eval. ____
Spec. Inv. ____
Training ____
Legal Coun. ____
Telephone Rm. ____
Director Sec'y ____

MAIL ROOM ☑ TELETYPE UNIT ☐

[redacted] b6 b7C

GPO

Airtel

1/23/76

To: SAC, Philadelphia (62-5421)
From: Director, FBI (62-115389)

EX-111 REC-50 37

1 - Mr. Wannall
1 - Mr. McDermott
1 - Mr. Mintz
1 - [redacted] b6 b7C
1 - File

SISTER ELIZABETH MC ALISTER, et al., v.
RICHARD G. KLEINDIENST, et al.
(U.S.D.C., E.D. PENNSYLVANIA)
CIVIL ACTION FILE NO. 72-1977

For the information of the Philadelphia office, the Department has requested and FBI Headquarters has granted permission for [redacted], a Department research analyst, to examine the following files at both FBI Headquarters and Philadelphia: b6 b7C

1. Bufile No. 25-608693 (Field Office File No. 25-42248), captioned: "[redacted] - et al., Destruction of Draft Board Records at Selective Service System [Philadelphia]"; b6 b7C

2. Bufile No. 25-613524 [pertaining to the Wilmington draft board raids];

3. Bufile No. 25-613526, captioned: "Unsubs. - Destruction of SS Records, Local Board #1, Selective Service System, 38 South St., Dover, Delaware";

4. Bufile No. 25-613525, captioned: "Unsubs., - Destruction of Selective Service Records, Local Board #2, 109 W. Pine St., Georgetown, Delaware";

5. Bufile No. 100-460495 [Field Office File No. 100-51190], captioned: "East Coast Conspiracy to Save Lives";

NOTE: Based on Legal Counsel Division memorandum to Mr. J. B. Adams dated 1/13/76.

RCB:kiw
(8)

MAILED 7
JAN 26 1976
FBI

Assoc. Dir. ___
Dep. AD Adm. ___
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Director Sec'y ___

FEB 6 1976

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[redacted] b6 b7C

GPO : 1975 O - 569-920

Airtel

2/13/76

REC. 70

To: SAC, Philadelphia (62-5421)

From: Director, FBI (62-115389)

1 - Mr. Wannall
1 - Mr. Mintz
2 - [redacted]

b6
b7C

SISTER ELIZABETH MC ALISTER, et al., v.
RICHARD G. KLEINDIENST, et al.
(U.S.D.C., E.D. PENNSYLVANIA)
CIVIL ACTION FILE NO. 72-1977

Enclosed for Philadelphia is one copy of a 1/15/76, memorandum from the AAG, Criminal Division, with attachments, which was recently received at FBIHQ. Although the Criminal Division memorandum indicated that SAC letter 69-31 dated 6/3/69, was attachment number 7 thereto, it was not, in fact, attached. Enclosed herewith for Philadelphia is one copy of that SAC letter excised to delete pages 1-3 which concern other matters not related to this case.

In its 1/15/76, memorandum, the Department advised that on 10/7/75, the U.S.D.C., E.D. Pa., had ordered that the defendants must respond to interrogatories previously filed in this case by the plaintiffs. Following the 10/7/75, Order, the Department moved for the issuance of a protective order which would limit the disclosure to be made of the information to be furnished the plaintiffs in response to their interrogatories. The Department has advised that it intends to appeal the 10/7/75, Order in the event the court declines to issue the requested protective order.

In anticipation that the court will issue the requested protective order, the Department has requested that answers which have been drafted in response to the plaintiffs' interrogatories be reviewed by SA Mason P. Smith of the Philadelphia office. If, after his review, SA Smith is

Enc.

RCB:kiw
(7)

(See NOTE, Page 2.)

MAILED 3
FEB 13 1976
FBI

Assoc. Dir.
Dep. AD Adm.
Dep. AD Inv.
Asst. Dir.:
Admin.
Comp. Syst.
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Files & Com.
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Legal Coun.
Telephone Rm.
Director Secty

MAIL ROOM 10 MAR 3 1976 TELETYPE UNIT

GPO : 1975 O - 569-920

Airtel to SAC, Philadelphia
Re: Sister Elizabeth McAlister, et al., v.
Richard G. Kleindienst, et al.
(U.S.D.C., E.D. Pennsylvania)
Civil action file no. 72-1977

The purpose in having this examination is to assist the Department in defending the Bureau's interests in captioned civil action, through the collation of information supporting the defendants' contention that the warrantless national security wiretap directed against plaintiff Davidon was initiated and conducted with good cause.

The files in question should be reviewed by knowledgeable personnel in your office to determine if they name any sources of continuing value or contain other information which continues to be of an extremely sensitive nature. If you determine that either of the above situations exist, you are requested to notify FBI Headquarters so that appropriate arrangements can be made with the Department.

We have requested that the Department provide us notice regarding when [redacted] would desire to examine the above files at FBI Headquarters and Philadelphia, and you will be advised by separate communication of the date she is expected to arrive in Philadelphia for the examination. The review of the files in question is to take place within Bureau space and under the general supervision of Bureau personnel. Your assistance to [redacted] in her examination will be greatly appreciated. b6 b7C

convinced that the enclosed answers are truthful and accurate responses to the plaintiffs' interrogatories, based on his familiarity with relevant Bureau files and the electronic surveillance which is the subject matter of this civil action, he is to execute these responses on behalf of the U.S. Government.

In accordance with the Department's request, it is requested that the enclosed material be reviewed by SA Smith. If SA Smith has any questions with regard to any of the enclosed interrogatory answers, these questions should immediately be brought to the attention of FBIHQ, Attention: Legal Counsel Division, so that they may be discussed with the Criminal Division of the Department. If SA Smith believes that the information contained in the responses to the plaintiffs' interrogatories is accurate and correct, he should execute these interrogatory responses on behalf of the U.S. Government. The executed responses should be retained in the Philadelphia field office until such time as the Philadelphia office is instructed by FBIHQ to furnish the responses to the AUSA handling captioned civil action in Philadelphia. Additionally, the tapes, transcripts and logs of the Davidon electronic surveillance presently maintained by the Philadelphia office should be retrieved and maintained in such a way that they will be promptly available for inspection by the plaintiffs in the event the protective order being sought by the Department is issued by the U.S.D.C., for the Eastern District of Pennsylvania.

NOTE: Based on referenced Department memorandum and Legal Counsel memorandum to Mr. J. B. Adams dated 2/12/76. It is noted that enclosure number 9 to the AAG, Criminal Division, memorandum dated 1/15/76, was erroneously listed as dated 1/9/76. The correct date is 1/5/76.

OFFICE OF THE DIRECTOR

~~SECRET~~

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

[redacted]

WASHINGTON, D.C. 20535

November 6, 1970

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: WILLIAM COOPER DAVIDON
SECURITY MATTER - MISCELLANEOUS

Reference is made to your letter dated May 6, 1969, concerning the Omnibus Crime Control and Safe Streets Act of 1968. U

This is to recommend installation of a telephone surveillance on the residence of William Cooper Davidon, 7 College Lane, Haverford, Pennsylvania. He is currently employed as a professor at Haverford College, Haverford, Pennsylvania. U

Davidon is an advisor and leading activist in the East Coast Conspiracy to Save Lives (ECCSL), the militant group which plans to blow up the underground electrical and heating systems servicing Government buildings in Washington, D. C., simultaneously with the kidnaping of a highly placed Government official. The Honorable Henry A. Kissinger, Assistant to the President for National Security Affairs, has been mentioned as a possible victim. Information concerning these plots has been previously furnished to you as well as Dr. Kissinger and Honorable John D. Ehrlichman, Assistant to the President for Domestic Affairs at the White House, and military intelligence agencies. U

Davidon has conferred with leaders of the ECCSL regarding the bombing and kidnaping plots and participated in an attack on draft boards in Wilmington, Delaware, in June, 1970, with members of the ECCSL. He has been described by informants as an organizer and "go-between"

Declassified ~~Revised~~ by 20 43 on 6-7-77 QW

~~SECRET~~

~~Group 1~~

~~Excluded from automatic downgrading and~~

ENCLOSURE

62-115-389-38A

with individuals and/or groups involved in draft board attacks throughout the northeast section of the United States. He has a long history of involvement in the draft resistance movement and as such has spoken out on behalf of the Communist Party as well as various front groups of the Socialist Workers Party. He is regarded by the Communist Party of Eastern Pennsylvania as a leader and rallying point of the antiwar groups in that area. In speeches made in the United States and other countries, Davidon has condemned the United States Vietnam policy and has encouraged United States soldiers to refuse to fight and young men to resist induction into the military services. It was determined, on a highly confidential basis, that Davidon,

indicated he hoped to obtain secret United States Department of Defense documents which could be publicized to gain support for the antiwar movement in the United States.

A telephone surveillance on Davidon's residence will undoubtedly provide extremely valuable information concerning information relating to activities of the ECCSL, as well as information regarding his involvement in the draft resistance and antiwar movement in the United States. Inasmuch as Davidon has indicated a desire to obtain classified material, this request is being made not only for the purpose of obtaining intelligence-type information but also to develop information of an evidentiary nature concerning his involvement in the ECCSL and related activities. In line with instructions on page five of your letter, the following information is set forth:

1. It is believed that members of the ECCSL may be involved in violation of the Kidnaping and Destruction of Government Property statutes or other laws involving the internal security of the country.

SECRET

~~SECRET~~

~~Secret~~

Memorandum for The Attorney General

2. At the present time, we are conducting an intelligence-type investigation of the ECCSL, as well as criminal investigations of the members of the group who may be in contact with Davidon. U

3. It is not known at this time whether other individuals under active investigation for possible criminal violations will be monitored by this surveillance. U

4. It is anticipated that interceptions on this telephone will provide information relating to Davidon's involvement in the draft resistance movement and attacks on draft boards, as well as information concerning activities of the ECCSL. U

I, therefore, recommend the installation of a telephone surveillance at 7 College Lane, Haverford, Pennsylvania, for a period of 30 days. If approved, you will be advised when the installation is made. U

Respectfully,

J. Edgar Hoover

John Edgar Hoover
Director

APPROVED J. Edgar Hoover

DATE 11/6/70

~~SECRET~~

OFFICE OF THE DIRECTOR

~~SECRET~~

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

December 7, 1970

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: WILLIAM COOPER DAVIDON
SECURITY MATTER - MISCELLANEOUS

Reference is made to my memorandum dated November 6, 1970, captioned as above. Your approval of that memorandum on November 6, 1970, authorized installation of a telephone surveillance on the subject's residence for a period of 30 days.

Davidon is an advisor and leading activist in the East Coast Conspiracy to Save Lives (ECCSL), the militant group which plans to blow up the underground heating and electrical systems servicing Government buildings in Washington, D. C., simultaneously with the kidnaping of a prominent Government official. Davidon has been described by informants as an organizer and "go-between" with individuals and/or groups involved in the draft resistance movement and as such is regarded by the Communist Party of the Eastern District of Pennsylvania as the rallying point for antiwar groups in the Philadelphia area. Information concerning the ECCSL has been previously furnished to you as well as the White House and other interested Government agencies.

Since its installation on November 24, 1970, this surveillance has produced highly significant information to corroborate Davidon's involvement with individuals associated with the ECCSL movement. Following my testimony concerning the ECCSL before the Senate Appropriations Subcommittee on

~~SECRET~~

~~Group 1~~
~~Excluded from automatic downgrading and declassification~~

dulmanfield 12-7-70 Our

62-115389-38

ENCLOSURE

November 27, 1970, individuals involved in that movement were in contact with Davidon or his wife concerning the matter and discussed plans relative to holding a press conference to refute the testimony. Such a press conference was held in Washington, D. C., by self-admitted members of the ECCSL on November 30, 1970. Data obtained from this coverage clearly discloses that Davidon is privy to inside information regarding this movement, is in frequent contact with its leaders and activists, and clearly shows that he serves as a contact and coordinator of activities for individuals involved in the ECCSL movement. It can be anticipated that this installation will continue to furnish extremely valuable information of an intelligence as well as an evidentiary nature concerning Davidon's involvement in the ECCSL and related activities.

Your authority is requested to continue the telephone surveillance on Davidon's residence for an additional 30-day period effective December 6, 1970.

Respectfully yours,

J. Edgar Hoover

John Edgar Hoover
Director

APPROVED [signature]

DATE 12/7/70

[redacted]

(D) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968 -- Recently the Attorney General furnished the Bureau detailed instructions relating to electronic surveillances (wiretaps and microphone coverage) in the internal security field which are pertinent to captioned Act. A summary of the instructions is being furnished herein for your guidance and compliance. When requesting authority for an electronic surveillance, make certain all additional data now required is set forth in Form FD-142.

For reasons of security, electronic surveillances in the internal security field should be requested under the Presidential authorization provision of the Act; however, if prosecution appears likely, consideration should be given to recommending use of a court order. Basis for the type desired should be clearly set forth.

The Supreme Court's decisions have shown that the legality of the interception is of prime importance in determining whether information regarding electronic surveillance must be disclosed to a defendant whose conversation has been intercepted. Therefore, future requests for electronic surveillances in the internal security field should contain:

(1). An identification of the premises and location, and the room or office, in which the interception device is to be placed or phone to which such a device is to be attached and facts regarding the installation to assist in determining whether a trespass will be involved.

(2). A general description of the activities subject is engaged in and the type of information which it is anticipated will be obtained through the electronic coverage.

(3). The period of time for which approval is requested, with subsequent advice as to date of installation.

(4). Whether it is anticipated that the conversations of any other subject who is under active investigation for possible criminal violations will be overheard.

With regard to tape recordings of intercepted conversations, such tapes should be preserved for a minimum period of ten years.

If it is anticipated results will be introduced into evidence or leads to evidence will be obtained where installation is being recommended under the Presidential authorization, the following additional information should be included:

(1). The crime or crimes which it is believed are being committed by the person or persons whose conversations are likely to be overheard.

(2). A complete description of the investigation being conducted - its origin, development and present status. This description should include a detailed analysis of all investigative procedures utilized and a statement as to their inadequacy and the need to use the proposed technique.

(3). The names and backgrounds of each prospective subject of the investigation.

(4). A description of the communications expected to be intercepted, together with an analysis of the relevance of the communication to the investigation.

Requests for coverage should be for no longer than a period of thirty days, subject, of course, to requests for extension.

Dissemination of intercepted information may be made to other intelligence and law enforcement agencies and allies of the United States on a need-to-know basis and should be appropriately classified, and in no case violate the dissemination limitations which are currently imposed upon classified national defense information. If evidence of possible criminal conduct is developed, extreme caution should be exercised in disseminating the information outside of the FBI and the information should be clearly identified as having originated from an electronic surveillance. If a question should arise whether a particular item of information falls within or without these general guidelines, advice of the Department should be obtained as to whether dissemination should be made.

It is realized that the instructions present certain serious problems, such as preservation of tapes for a minimum of ten years, and also certain questions, such as the manner of identifying information as coming from an electronic surveillance when disseminating information of a possible criminal conduct. These and other such matters will be taken up with the Department for clarification. Pending the receipt of clarification, however, you should follow the instructions set out herein to the best of your ability, communicating with the Bureau in the event a specific situation presents a special problem.

For your information, the Criminal Division of the Department is currently preparing a "Manual for Conduct of Electronic Surveillance" which will contain detailed instructions regarding the form of, and the information to be contained in, future requests to the Attorney General for authorization to apply for an interception order from the courts.

Very truly yours,

John Edgar Hoover

Director

FBI

Date: 10/30/70

Transmit the following in _____ (Type in plaintext or code)

AIRTEL REGISTERED MAIL (Priority)

TO: DIRECTOR, FBI
(ATTN: DOMESTIC INTELLIGENCE DIVISION)

FROM: SAC, PHILADELPHIA

SUBJECT: EAST COAST CONSPIRACY TO SAVE LIVES (ECCSL)
IS-MISCELLANEOUS; DGP;
KIDNAPPING; SABOTAGE -
CONSPIRACY

Attached are two copies of FD-142 dated 10/30/70.

The selection of the residence telephone of WILLIAM COOPER DAVIDON has been made after a careful survey and analysis of the various personalities active in captioned organization and related groups.

While other possible locations exist for such coverage, none presents the high-level potential which requested installation contains.

It is strongly recommended the attached request be approved.

2 - Bureau (Enc. 2) (RM)
1 - Philadelphia

WBA/cas
(3)

NOV 2 1970

ENCLOSURE

62-115389-38

Approved: _____ Sent _____ M Per _____

Special Agent in Charge

U. S. GOVERNMENT PRINTING OFFICE

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI DATE: 10/30/70

FROM : SAC, PHILADELPHIA

SUBJECT: RECOMMENDATION FOR INSTALLATION OF TECHNICAL OR MICROPHONE SURVEILLANCE

RE: Title EAST COAST CONSPIRACY TO SAVE LIVES (ECCSL); IS-MISC; DGP; KIDNAPPING;
Character of Case SABOTAGE - CONSPIRACY
Field Office Philadelphia
Symbol Number
Type of Surveillance (Technical ~~XX~~ ~~XXXXXXXX~~)

1. Name and address of person or organization on whom surveillance is to be placed: WILLIAM COOPER DAVIDON, 7 College Lane, Haverford, Pa.

2. A. Address where installation is to be made (set forth exact room number or area to be covered): Private residence, detached house, 7 College Lane, Haverford, Pa., Tel. No. Midway 9-6154, private line listed to DAVIDON.
B. Location where monitoring plant is to be maintained: [redacted] b7E

3. Previous and other current installations on the same subject: None

4. Cost and manpower involved: [redacted] b7E

5. Adequacy of security: Full security assured. [redacted] b7E

6. Type of case involved: Internal Security; Bombing Matters; Anti-Riot Laws; New Left - Violence; Destruction of Government Property; Kidnapping; and Sabotage - Conspiracy.

7. Connection or status of subject in the case: See Addendum.

8. Specific information being sought: Details of plans of ECCSL to destro the electrical and heating system servicing Government buildings in the Washington, D.C., area and to kidnap a highly-placed Government official. Also plans of ECCSL to attack FBI offices and resident agencies, local draft boards, and offices of large corporations engaged in work relating to the national defense interests. Also, in view of DAVIDON's possession of knowledge and influence as outlined under Item #7, there is the strong possibility DAVIDON is and will become privy to information concerning whereabouts of political fugitives, even though there is no info available at present to ver

9. Reasons for believing the specific information will be obtained by the [th technical surveillance: DAVIDON, as a leader of "the movement" in the East, has been in contact with other leaders in "the movement Informants have described DAVIDON as a behind-the-scene organizer an a "go-between" with persons involved in draft board attacks throughc the East. It is reasonably anticipated that a continuation of such attacks will involve contacts by the participants with DAVIDON.

10. Importance of case and subject: See Item #3 above. Importance of case involves destructive plans of ECCSL.

11. Possibilities of obtaining desired information by other means (Explain in detail): Limited.

Only one live informant, [redacted] is privy to planning sessions of ECCSL. It is noted that [redacted] is [redacted] and is not in the main stream of ECCSL activities; that is, his information is second-hand and obtained irregularly and infrequently. b7D

[redacted] is a confidant of DAVIDON to a limited degree and is aware of some of DAVIDON's involvement in the planning of destruction of local draft boards, both past and future.

12. Risks of detection involved: None. No trespass involved.

13. Probable length of technical surveillance: Thirty days from date of actual installation.

14. Request made for technical surveillance by any outside agency (name specific official, title and agency): None.

15. Remarks: It is anticipated that the results of this communication's intercepts may be introduced into evidence or that leads to evidence will be obtained under this recommended Presidential authorization, and the received intercepts will be retained and processed per SAC Letter 69-31 (D). Previously authorized intercepts in the organized crime field and the security field have been handled with complete security

16. Recommendation of Assistant Director:

ADDENDUM

Item #7

WILLIAM COOPER DAVIDON is the subject of Bureau File [redacted] and is on the Security Index of the Philadelphia Division.

DAVIDON was born in Fort Lauderdale, Fla., 3/18/27. His father was born in Russia. DAVIDON holds a PhD. Degree in Physics, having received his BS, MS and PhD. at the University of Chicago.

Prior to coming to Haverford College, Haverford, Pa., in August, 1961, DAVIDON was employed by the Argonne National Laboratory (ANL) in Argonne, Ill., which laboratory is operated by the University of Chicago for the Atomic Energy Commission. His latest assignment at ANL was as Associate Physicist. He was retained by ANL as a consultant by the Applied Mathematics Department. DAVIDON is Chairman of the Physics Department and an instructor in mathematics and physics at Haverford College.

During the years he lived in the Chicago area, DAVIDO participated in and/or spoke at disarmament and peace demonstra tions, rallies, and meetings that were sponsored by various organizations in the Chicago area; he was chairman of the Chica Chapter of the Federation of American Scientists; was particip in and signer of "Vienna Declaration" adopted by Third Pugwash Conference, Kitzbuhel, Austria; in 1956 it was stated that although DAVIDON was not a COMMUNIST PARTY (CP) member, this di not mean that CP members could not influence him; his activitie were commended by CP members and in the official organ of the IWW; DAVIDON indicated a strong interest in and willingness to speak for the FAIR PLAY FOR CUBA COMMITTEE; he spoke before the EMMA LAZARUS FEDERATION OF JEWISH WOMEN'S CLUBS; he was self-admittedly sponsor of the Committee to Secure Justice for MORTO SOBELL; was a contributor to and signer of a petition prepared by the National Committee to Abolish the House Un-American Activities Committee; sponsored Southern Conference Educational Fund activities, etc.

Since arrival in the Philadelphia area, WILLIAM

in groups and demonstrations opposed to all United States activities in Vietnam and Southeast Asia; his name has been discussed at COMMUNIST PARTY OF EASTERN PENNSYLVANIA AND DELAWARE District Board meetings as a leader and rallying point of the peace forces; he has served as co-chairman of the Committee for Nonviolent Action; has stated Americans have moral obligation not to serve in the Armed Forces or in any way aid the Vietnam war; contributed to the Independent Citizens Committee; continued to be a sponsor of the National Committee to Abolish the House Un-American Activities Committee; spoke at a W.E.B. DU BOIS CLUB OF AMERICA (DCA) rally protesting Attorney General's order for DCA to register as a communist front; was one of six persons who traveled to Saigon, South Vietnam, as part of a peace seeking group who were arrested and expelled by Saigon Police; refused to pay income taxes because of opposition to war in Vietnam; has encouraged young men to refuse to obey orders to go to Vietnam as part of the military; has led Resistance demonstrations in Washington and Philadelphia area; signed letter refusing cooperation with Selective Service System; has spoken before and/or on behalf of CP and/or SOCIALIST WORKERS PARTY (SWP) controlled front groups and related activities.

SISTER ELIZABETH MC ALISTER, an activist nun in the anti-Vietnam war movement and admittedly an ardent supporter of REV. PHILIP BERRIGAN and his brother REV. DANIEL BERRIGAN, has conferred with WILLIAM DAVIDON at Haverford. WILLIAM DAVIDON has participated in planning attacks on local draft boards. An informant knowledgeable of some ECCSL members and activities considers several ECCSL members and associates and WILLIAM DAVIDON as leaders of "the movement" in the East.

An article in a local newspaper in April, 1970, reflects DAVIDON continues to be active in the Pugwash Conferences and attended the most recent meeting held in Czechoslovakia in 1969. The article reflects he attended the Stockholm World Conferences on Vietnam in the recent past and while in Denmark and Sweden on recent trips described various anti-war and anti-military United States activities, including the destruction of draft files in various United States cities, for the benefit of European correspondents. He also reportedly suggested to Swedish "groups and professors" additional things

[redacted] has reported during recent months on DAVIDON's involvement in destruction of Selective Service records. Concerning destruction of the Selective Service records at Wilmington, Del., on 8/17-18/70, DAVIDON had previously indicated he desired to obtain Army uniforms; however, later reported they did not need them, inasmuch as they had utilized sheets of plywood in the ceiling of a washroom to conceal the people involved in the draft board destruction until after the close of the work day. DAVIDON indicated that they even were interrupted by an Army Colonel, whom they engaged in conversation, and convinced him they were repairing the air conditioning system.

During August, 1970, the source advised he had ascertained that DAVIDON would possibly have to go underground in the near future and that his days of freedom were numbered.

During September, 1970, the source advised that DAVIDON indicated "they" were interested in destroying the records at the Selective Service Boards at 1732 South Broad Street, Philadelphia, and at another location. Also during September, 1970, DAVIDON commented to the informant regarding the break-in of the Selective Service Boards in Rochester, N.Y., and coupled with statements regarding other draft board break-ins gave the appearance to be acting as go-between and a coordinator in connection with these various draft board break-ins.

Paragraph deleted for protection of live informant's identity.

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. C. D. Brennan

[dated November 5, 1970]

FROM : R. L. Shackelford

SUBJECT: EAST COAST CONSPIRACY TO SAVE LIVES
INTERNAL SECURITY - MISCELLANEOUS

Memorandum recommends installation of a telephone surveillance (tesur) on residence of William Cooper Davidon, 7 College Lane, Haverford, Pennsylvania. Davidon, a professor at Haverford College, is a Security Index subject of the Philadelphia Office and a leading activist in the East Coast Conspiracy to Save Lives (ECCSL).

The ECCSL is a militant group which plans to blow up the underground electrical and heating systems servicing Gover buildings in Washington, D. C., simultaneously with the kidnap of a highly placed Government official. Members of the ECCSL have been involved in the destruction of Selective Service rec and plan to expand activities to include attacks on FBI office

Davidon has been a leader and participant in numerou demonstrations opposing U.S. activities in Southeast Asia; he regarded as the rallying point of peace forces in the Philadel area by the Communist Party of Eastern Pennsylvania; was a spo of the National Committee to Abolish the House Un-American Activities Committee; protested Attorney General's order for t W.E.B. DuBois Club of America to register as a communist front traveled to South Vietnam with a peace group which was subsequ expelled from that country; refused to pay taxes because of opposition to the Vietnam war; plays a prominent role in the draft resistance movement in the Philadelphia area and as such has spoken out on behalf of the Communist Party and/or Socialis Workers Party controlled front groups. In speeches made in th U.S. and other countries, Davidon condemned the U.S. Vietnam p encouraged U.S. soldiers to refuse to fight and young men to r induction into the military service. It was determined, on a

ENCLOSURE 62-115384-38

Enclosure 11-6-70

highly confidential basis, that Davidon,

indicated he hoped to obtain secret U.S. Defense Department documents which could be publicized to gain support for the antiwar movement in the U.S.

Davidon has conferred with leaders of the ECCSL regarding the bombing and kidnaping plots and participated in an attack on draft boards in Wilmington, Delaware, 6-70, with other ECCSL members. He has been described by informants as an organizer and "go-between" with individuals and/or groups involved in draft board attacks throughout the Northeast.

In view of Davidon's background, his involvement in ECCSL activities and his unique position as the behind-the-scene organizer with individuals involved in draft board attacks, a tesur on his residence would be extremely beneficial to ascertain information relating to activities of the ECCSL as well as information regarding Davidon's involvement in the draft resistance and antiwar movement in the U.S.

There is, attached, a memorandum to the Attorney General requesting his approval for a tesur on Davidon. He is being referred to his letter of 5-6-69 concerning the Omnibus Crime Control and Safe Streets Act of 1968, wherein he advised that if it is anticipated results from a tesur will be introduced in court or leads to evidence will be obtained from a tesur, we should request his authority under Presidential authorization, furnishing him additional specific data and make our request for no more than 30 days. This is included in our request to him.

ACTION:

It is recommended that the attached memorandum to the Attorney General be approved and sent.

11-6-70

Airtel

To: SAC, Philadelphia

From: Director, FBI

EAST COAST CONSPIRACY TO SAVE LIVES (ECCSL)
IS - MISC

Reairtel 10-30-70.

On 11-6-70 the Attorney General approved installation of a telephone surveillance on the residence of William Cooper Davidon, 7 College Lane, Haverford, Pennsylvania. Provided full security assured, Bureau authority to install the surveillance is granted this date. Advise time and date of installation and symbol number assigned.

Your attention is directed to SAC Letter 69-31 (D) concerning the Omnibus Crime Control and Safe Streets Act of 1968. The Attorney General approved this surveillance with the understanding that it will not only furnish intelligence-type information, but also information which could be introduced into evidence or lead to evidence in a court of law. Accordingly, certain additional information must be furnished him as noted on page five of the SAC Letter. It is further noted that requests for this type coverage should be for no longer than a period of 30 days, subject to requests for extension.

MAILED 21
NOV 9 1970
COMM-FBI

You must submit 30-day justification letters (FD-142) concerning this surveillance. To insure that the Attorney General is in receipt of a justification memorandum in sufficient time, you must submit the FD-142 justifying this surveillance and including all pertinent data as noted in the SAC Letter to reach the Bureau by no later than 11-25-70.

ENCLOSURE

SEE NOTE PAGE TWO

62-115-3859 38

Airtel to Philadelphia
RE: [redacted] to
Save Lives (ECCSL)

NOTE:

The ECCSL is a militant group which plans to blow up the underground electrical and heating systems servicing Government buildings in Washington, D. C., simultaneously with the kidnaping of a highly placed Government official. Davidon, a Security Index subject of the Philadelphia Office, is a leading activist and advisor in the ECCSL. Director's approval was based on memorandum M. L. Shackelford to C. D. Brennan dated 11-5-70. Attorney General's approval was based on memorandum to the Attorney General dated 11-6-70.

OPTIONAL FORM NO. 10 5010-106
MAY 1962 EDITION
GSA GEN. REG. NO. 27

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR DATE: 12/1/70

FROM : SAC, PHILADELPHIA

SUBJECT: JUSTIFICATION FOR CONTINUATION OF TECHNICAL OR MICROPHONE SURVEILLANCE

RE: Title EAST COAST CONSPIRACY TO SAVE LIVES (ECCSL)
IS-MISCELLANEOUS
Character of Case IS-MISCELLANEOUS
Field Office PHILADELPHIA
~~Symbol Number~~
Type of Surveillance: (Technical ~~Microphone~~)

1. Name of person or organization on whom surveillance placed: WILLIAM COOPER DAVIDON

2. Address where installation made. Also give exact room number or area covered: 7 College Lane, Haverford, Pa. Private residence, detached house, no trespass, telephone MI9-6154.

3. Location of monitoring plant: [redacted] b7E

4. Dates of initial authorization and installation: Authorization 11/6/70; installation 11/24/70

5. Previous and other installations on the same subject (with dates and places): None

6. If installation is a technical surveillance, answer following questions:

 a. Is a trunk line utilized? Yes

 b. Is the surveillance on a switchboard? No

 Is the surveillance on a public coin-operated telephone? No

Registered Mail
2 - Bureau (100-460495)
1 - Philadelphia (100-51190 SUB B)

ENCLOSURE

62-115389-38

d. Is surveillance on a private line or a party line? Private line

e. If a party line, how many parties? N/A

7. If a microphone surveillance involved, state number of microphones actually used and location of each: N/A

8. Is the installation part of a tel-mike? If so, give symbol of other side of the combination: No

9. Specific examples of valuable information obtained since previous report with indication of specific value of each item and the date information received. State what use was made of each item involved: (Add insert pages)

(See Page 5)

10. Could above information have been obtained from other sources and by other means? No

11. Number of live informants (in field division) who cover same subject: 3

12. Has security factor changed since installation? No

13. Any request for the surveillance by outside agency (give name, title and agency): No

14. Cost of Plant Premises:

a. Rental costs for plant premises: [redacted]

b. Give total number of other surveillances monitored at same plant. [redacted] b7E

c. If any others, set out the proportionate cost of instant surveillance: [redacted] b7E

15. Cost of Leased Line for instant installation? Final bill not received to date.

16. Personnel Costs:

a. Give total number of special employees and/or Special Agents working at plant and total salary costs. [redacted]

b. Total number of man hours per week spent at plant? [redacted] b7E

c. If other installations monitored at same plant, list proportionate number of man hours per week spent on instant surveillance: [redacted] b7E

d. If other installations monitored at same plant, list proportionate salary expense per annum for instant surveillance: [redacted] b7E

17. Remarks (By SAC): This installation has proved to be productive and valuable. Its continuance is strongly recommended.

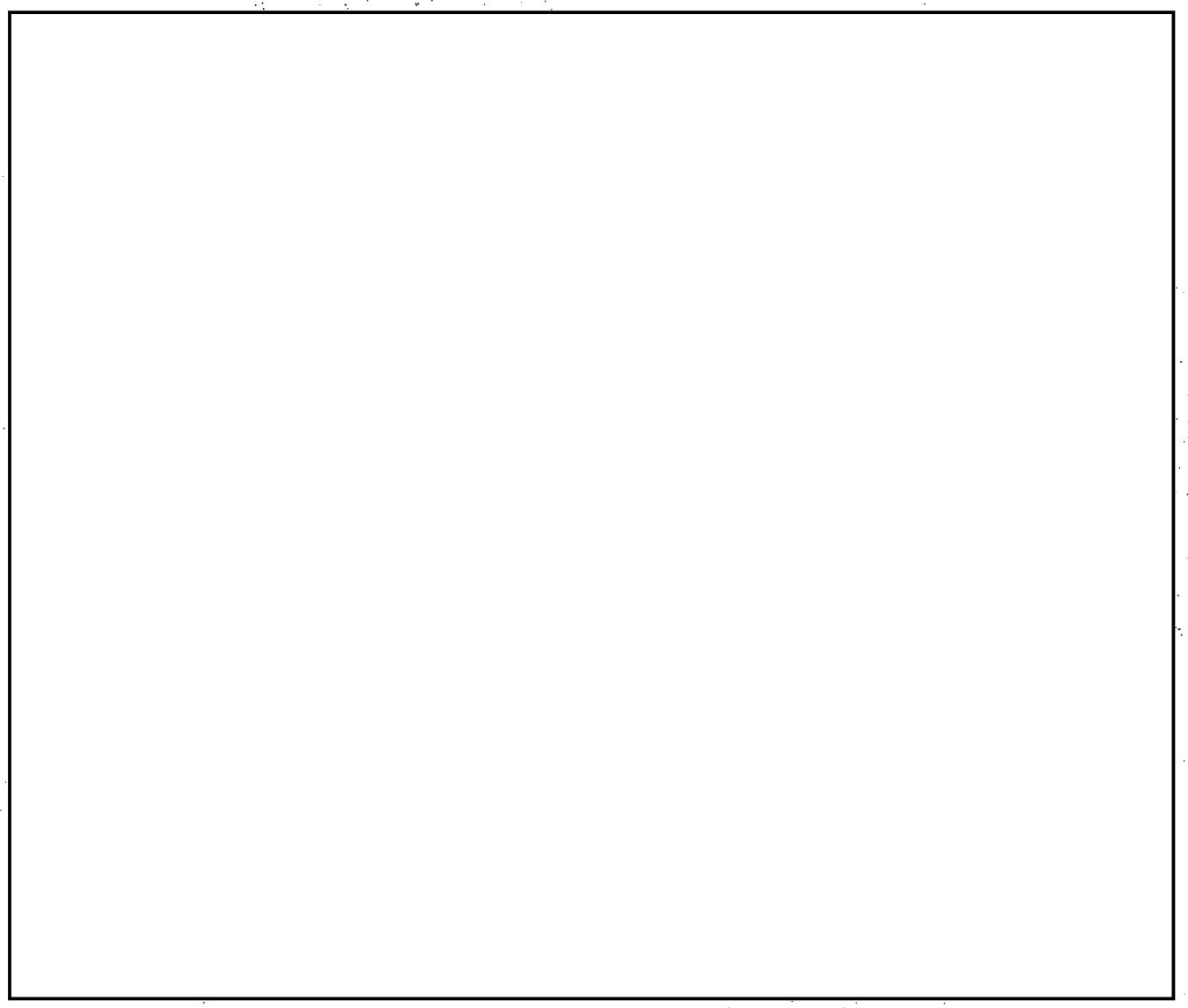
18. Recommendation by Assistant Director:

(If this surveillance involves cryptanalysis, include statement that decrypted material is or is not sufficiently important to continue decrypting.)

9. (cont'd)

The following information pertaining to captioned investigation has been received from instant installation during period 11/24-29/70: b6 b7C b7E

[redacted]



b6
b7C
b7E

The above information from this installation, in analysis, indicates a direct connection between DAVIDON and the persons involved in captioned investigation. DAVIDON personally appears to know many of the subjects of instant investigation, is privy to information concerning their whereabouts and activities (at least partially) and at times serves as a go-between, contact and coordinator for the persons so involved. Information from this source together with information from other sources is being coordinated and evaluated with a view toward successful prosecution of persons involved.

Additionally, information from this installation indicates that [redacted] b6 b7C b7E

Information from this installation further reflects that DAVIDOV and his wife are active, on an organizational level, in organizations and demonstrations involved in anti-U.S. and anti-Vietnam War activities. This information is being appropriately disseminated to interested desks in Philadelphia and to interested agencies in Philadelphia.

FD-36 (Rev. 2-14-74)

FBI

Date: 2/19/76

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL _____ (Precedence)

TO: DIRECTOR, FBI (62-115389)
ATTN: OFFICE OF LEGAL COUNSEL

FROM: SAC, PHILADELPHIA (62-5421) (ASAC2) (P)

SUBJECT: SISTER ELIZABETH MC ALISTER,
ET AL VS. RICHARD G. KLEINDIENST,
ET AL
(U.S.D.C., EDPA.)
CIVIL ACTION FILE # 72-1977

Re Bureau airtel to Philadelphia, dated 2/13/76, with enclosures.

Enclosed for the Bureau are two xerox copies of defendant's answer to interrogatory # 6, which has been executed by SA MASON P. SMITH. These are enclosed and are to be forwarded to [redacted] of the Department of Justice per his request. b6 b7C

On 2/17/76, SA MASON P. SMITH executed defendant's answer to plaintiff's first interrogatory and defendant's answer to interrogatory # 6. On 2/18/76, the executed copy of defendant's answer to plaintiff's first interrogatory was furnished to AUSA [redacted]. b6 b7C

The remaining documents furnished to Philadelphia with referenced airtel are being maintained pending arrangements for review by plaintiff's counsel.

2-ENCLOSURE REC-3 62-115389-39

2 - Bureau (62-115389) (Encls. 2)
1 - Philadelphia (62-5421) EX-116
NPS:mp
(3)

14 FEB 23 1976

[redacted] b6 b7C

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

53 MAR 2 1976

Philadelphia has likewise gathered the other documents to be made available to plaintiff, and we are prepared to handle any arrangement to review this material.

ENCLOSURES TO DIRECTOR, FBI

62-115389

62-5421 (ASAC2)

AIRTEL Mail 2/19/76

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SISTER ELIZABETH MC ALISTER, et al., Plaintiffs,	)	
v.	)	Civil Action No. 72-1977
RICHARD G. KLEINDIENST, et al., Defendants.	)	

DEFENDANTS' ANSWER TO INTERROGATORY NO. 6

Now comes Mason Paul Smith, Special Agent, Federal Bureau of Investigation, Philadelphia Office, and on the basis of the information derived from the files of the Department of Justice deposes and responds to plaintiffs' Interrogatory No. 6, as follows:

INTERROGATORY NO. 6: For each overhearing indicate the following:

(a) Whether the co-operation of any telephone company employee was sought in the overhearing or installation of equipment.

(b) If the response to part (a) is yes, the name of all such employees; their employer's name whether or not the employer's co-operation was obtained; and if so, the exact act or omissions constituting such co-operation.

ANSWER TO INTERROGATORY NO. 6: Pursuant to the protective order entered herein precluding disclosure of the requested information on open record, and in response to Interrogatory No. 6 defendants' state:

(a) Yes.

(b) The installation was effected with the co-operation of Bell Telephone of Pennsylvania, upon request for a leased line directed to Mr. Winfield Scott, Vice President-Staff. In addition to provision of the leased line, Mr. William Gray

of Bell Telephone of Pennsylvania provided wire identification.

Respectfully submitted,

Mason P. Smith

MASON PAUL SMITH
Special Agent
Federal Bureau of Investigation
Philadelphia, Pennsylvania
215/629-0800

Subscribed and sworn to before me this 17 day of February, 1976, at Philadelphia, Pennsylvania.

Marilyn C. Rafter

NOTARY PUBLIC

MARILYN C. RAFTER
Notary Public, Philadelphia, Philadelphia Co.
My Commission Expires December 10, 1979

My Commission expires _____.

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

Assoc. Dir. ____
Dep. AD Adm. ____
Dep. AD Inv. ____
Asst. Dir.:
Admin. ____
Comp. Syst. ____
Ext. Affairs ____
Files & Com. ____
Gen. Inv. ____
Ident. ____
Inspection ____
Intell. ____
Laboratory ____
Legal Coun. ____
Plans & Eval. ____
Spec. Inv. ____
Training ____
Telephone Rm. ____
Director Sec'y ____

TO : Mr. J. B. Adams

DATE: 2/12/76

FROM : Legal Counsel

SUBJECT: SISTER ELIZABETH MC ALISTER, et al., v.
RICHARD G. KLEINDIENST, et al.
(U.S.D.C., E.D. PENNSYLVANIA)
CIVIL ACTION FILE NO. 72-1977

By memorandum dated 1/15/76, the Department advised that an Order had been entered in captioned civil action on 10/7/75, requiring the defendants to respond to interrogatories which the plaintiffs have filed in this case. Additionally, the Department advised that it has moved for a protective order which would limit the disclosure of the material to be furnished in response to the plaintiffs' interrogatories, and that the Government's answers to the interrogatories would be due shortly after the issuance of the requested protective order.

The Department's 1/15/76, memorandum enclosed Answers to the plaintiffs' interrogatories which the Department has formulated based on material previously furnished to them by the FBI. The Department requested that these answers be furnished to the Philadelphia office for review by Special Agent Mason P. Smith. Following his review, Special Agent Smith is to execute these interrogatory answers on behalf of the Government, if it is his belief that the answers are correct based on his knowledge of pertinent FBI files and his personal recollection of the electronic surveillance which is the subject matter of captioned civil action.

REC-48
62-115389-40
FEB 18 1976

Enc.
1 - Mr. Wannall
1 - Mr. Mintz
2 - [redacted]
RCB:klw
(5)

EX-110

(CONTINUED - OVER)

LEGAL COUNSEL

b6
b7C

2 - ENCLOSURE

[redacted]

55 MAR 5 1976

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

5010-108

Memorandum to Mr. J. B. Adams
Re: Sister Elizabeth McAlister, et al., v.
Richard G. Kleindienst, et al.
Civil Action File No. 72-1977

By way of background, captioned civil action was filed in 1972 following the Government's release to Sister McAlister, under court order during the EASTCON trial, of information indicating that she had been overheard on a warrantless national security wiretap directed against another individual. Sister McAlister's complaint in this civil action alleged that she and plaintiff William Cooper Davidon had been injured as a result of being overheard on this wiretap which they allege was violative of Federal Statute and the United States Constitution. It is the Government's contention that the electronic surveillance in question was legal at the time it was authorized by the Attorney General of the United States and was conducted by the FBI in a good faith belief that the electronic surveillance was necessary in order to protect the national security of the United States.

In addition to providing the attached interrogatory answers to the plaintiffs, it is the Department's intention to make available to the plaintiffs, under protective order, the documents and items set forth on pages 1 and 2 of the enclosed Department memorandum of 1/15/76. Certain of the documents to be made available to the plaintiffs are already maintained by the Philadelphia office. The other documents, with the exception of SAC letter 69-31 dated 6/3/69, are attached to the Department's 1/16/76, memorandum and have been appropriately excised. We have supplied the SAC letter, appropriately excised, which was listed as attachment number 7 to the Department's memorandum but was not, in fact, attached thereto. It is the Legal Counsel Division's opinion that the attached documents should be made available to the plaintiffs in response to the United States District Court for the Eastern District of Pennsylvania's Order of 10/7/75, in the event that that court issues the protective order the Government now seeks. Failing the

(CONTINUED - OVER)

issuance of the protective order, the Department has advised that it will attempt to appeal the 10/7/75, Order requiring discovery. With regard to the proposed interrogatory answers, the Legal Counsel Division is of the view that these answers should be furnished to Special Agent Smith for his review and execution if he agrees with the material set forth therein.

RECOMMENDATION:

That the attached airtel to Philadelphia, enclosing a copy of the Department's 1/15/76, memorandum and the attachments thereto, and requesting that the answers to plaintiffs' interrogatories be reviewed by Special Agent Smith prior to execution thereof, be approved and sent.

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

Assoc. Dir. ____
Dep. AD Adm. ____
Dep. AD Inv. ____
Asst. Dir.:
Admin. ____
Comp. Syst. ____
Ext. Affairs ____
Files & Com. ____
Gen. Inv. ____
Ident. ____
Inspection ____
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Laboratory ____
Legal Coun. ____
Plan. & Eval. ____
Spec. Inv. ____
Training ____
Telephone Rm. ____
Director Sec'y ____

TO : Mr. J. B. Adams

DATE: 1/20/76

FROM : Legal Counsel

SUBJECT: SISTER ELIZABETH MC ALISTER, et al., v.
RICHARD G. KLEINDIENST, et al.
(U.S.D.C., E.D. PENNSYLVANIA)
CIVIL ACTION FILE NO. 72-1977

(Detached FBI memo in 62-115369-37)

By attached memorandum dated 1/5/76, the Criminal Division has requested permission to have [redacted], a research analyst, examine certain Bureau files maintained at FBI Headquarters and in Philadelphia. b6 b7C

The purpose of the requested examination is to derive information which will support the FBI and Department defendants' contention that the electronic surveillance engaged in by the defendants, which is the subject matter of this civil action, was undertaken with good cause.

By way of background, captioned civil action was filed soon after Sister Elizabeth McAlister, a defendant in the Eastcon prosecution, was advised, subject to a "protective order," that she had been overheard on a warrantless national security wiretap directed at another individual. Thereafter, McAlister and William Davidon, the subject of the wiretap, filed this civil action alleging that the wiretap in question was illegal and in violation of their constitutional and statutory rights.

EX-115
REC-60
62-115369-41
14 FEB 24 1976

(CONTINUED - OVER)

Enc.
1 - Mr. Wannall
1 - Mr. McDermott
1 - Mr. Mintz
1 - [redacted] b6 b7C
1 - File
RCB:kiw
(6)

ELEVEN

MAR 2 1976

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

5010-108

Legal Counsel memorandum to Mr. J. B. Adams
Re: Sister Elizabeth McAlister, et al., v.
Richard G. Kleindienst, et al.
(U.S.D.C., E.D. Pennsylvania)
Civil Action File No. 72-1977

The files the Department would like to examine are primarily concerned with Selective Service office break-ins which occurred prior to or contemporaneous with the Eastcon investigation and which were later used as evidence of overt acts during the Eastcon prosecution. The pertinent Bufile numbers and Philadelphia file numbers are set forth on the attached Department memorandum and it is the view of the Legal Counsel Division, subject to the Intelligence Division's opinion requested in recommendation number 1, that access to these files by [redacted] should be granted with the proviso that she examine the files in Bureau space and under the supervision of appropriate FBI Headquarters and Philadelphia office personnel. It should be noted that [redacted] has a "Top Secret" clearance, and her review will be supervised by Legal Counsel Division.

b6
b7C

RECOMMENDATIONS:

1. That the Intelligence Division notify the Legal Counsel Division whether or not any sources or sensitive information is contained in the files in question such as would make it inadvisable to allow the Department representative to examine certain of the documents.

2. That the attached memorandum to the AAG, Criminal Division, granting access to the files in question subject to the proviso set forth above be approved and sent.

(CONTINUED - OVER)

Legal Counsel memorandum to Mr. J.B. Adams
Re: Sister Elizabeth McAlister, et al., v.
Richard G. Kleindienst, et al.
(U.S.D.C., E.D. Pennsylvania)
Civil Action File No. 72-1977

3. That the attached airtel to Philadelphia notifying them of this decision be approved and sent.

FD-350 (Rev. 7-16-63)

(Mount Clipping in Space Below)

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Dep.-A.D.-Adm. ____
Dep.-A.D.-Inv. ____
Asst. Dir.:
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Spec. Inv. ____
Training ____
Legal Coun. ____
Telephone Rm. ____
Director Sec'y ____

FBI Admits Tapping Prof's Phone

By JIM SMITH

The FBI has admitted tapping the phone of William Davidon, a Haverford College professor and antiwar activist, for 34 days in 1970 and 1971.

The tap on Davidon's phone in his home on College Lane, Haverford, was requested for "national security purposes" by J. Edgar Hoover and authorized by former Attorney General John N. Mitchell, the FBI said.



Davidon

Former President Richard M. Nixon was unaware of the tap, FBI agent Mason P. Smith said in records filed last week in U. S. District Court here.

Davidon's home was not entered by FBI agents who installed the tap, Smith said. It was in use from Nov. 24, 1970, to Dec. 23, 1970, and from Jan. 3, 1971, to Jan. 6.

The tap became known as a result of a suit filed in 1972 here by Davidon and Elizabeth McAlister, a former nun who is now the wife of Philip Berrigan, an ex-priest who was a leader in the antiwar movement.

Davidon, a physics teacher, and Mrs. Berrigan allege that the surveillance was illegal, and they seek more than $100,000 in damages from the federal government.

In 1971, before the Berrigans were married, they and five other persons (the "Harrisburg Seven") were tried and acquitted in Harrisburg of conspiring, among other things, to kidnap Henry Kissinger and release him after a "public trial for his Vietnam policies."

Davidon was named an unindicted co-conspirator.

During the trial, the FBI acknowledged that the former nun's conversations with a co-defendant, John Theodore Glick, were overheard on a national security wiretap. The tap was declared illegal at that time.

The fact that Davidon's phone was the subject of the tap was not officially revealed until last week. The FBI said it believed the tap to be legal.

(Indicate page, name of newspaper, city and state.)
Philadelphia Daily News, Philadelphia, Pa., Page 3

b6
b7C

Date: 2/23/76
Edition: Four Star
Author: Jim Smith
Editor: F.G. Spencer
Title:

Character:
or
Classification:
Submitting Office PH

☐ Being Investigated

62-115389-4

NOT RECORDED
43 MAY 7 1976

56 MAY 10 1976

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SISTER ELIZABETH MC ALISTER, et al.,)
)
Plaintiffs,)
)
v.) Civil Action No. 72-1977
)
RICHARD G. KLEINDIENST, et al.,)
)
Defendants.)

DEFENDANTS' FIRST INTERROGATORIES TO PLAINTIFF WILLIAM COOPER DAVIDON

To: William Cooper Davidon
c/o Jack Levine, Esquire
1427 Walnut Street, Suite 200
Philadelphia, Pennsylvania 19102

Defendants hereby propound the following interrogatories to plaintiff William Cooper Davidon, to be answered under oath, pursuant to Rule 33, F.R.Civ.P. Answers are due thirty days from the date of service hereof.

1. Did you attend a meeting in Connecticut on August 17, 1970, with Eqbal Ahmad and plaintiff McAlister, as plaintiff McAlister stated in her letter to Philip Berrigan attached hereto as Attachment No. 1?

2. Was a plan discussed at that meeting to kidnap Dr. Henry Kissinger, or someone like him, as plaintiff McAlister stated in the aforementioned letter [Attach. 1]?

3. If your answer to Interrogatory No. 2 is yes, please relate in detail the content of that discussion.

4. Was a plan discussed at that meeting to also kidnap other persons in order that Dr. Kissinger could be "tried" or in order to permit you, and/or the others in attendence at the meeting, to conduct a grand jury affair, as plaintiff McAlister stated in the aforementioned letter [Attach. 1]?

5. If your answer to Interrogatory No. 4 is yes, please relate in detail the content of that discussion.

6. Did the discussion about the kidnap plan last for several hours, as plaintiff McAlister stated in the aforementioned letter [Attach. 1]?

7. After the meeting described by plaintiff McAlister in the aforementioned letter [Attach. 1], did you make any inquiries or references to or otherwise discuss with plaintiff McAlister, Eqbal Ahmad, Jogues Egan, Joseph Wenderoth, Neil McLaughlin, or any other person the meeting in Connecticut or the kidnap plan discussed at that meeting?

8. If your answer to Interrogatory No. 7 is yes, please relate in detail the content of that inquiry, reference, or discussion.

9. After the meeting described by plaintiff McAlister in the aforementioned letter [Attach. 1], did plaintiff McAlister, Eqbal Ahmad, Jogues Egan, Joseph Wenderoth, Neil McLaughlin, or any other person mention, refer to, or otherwise discuss the kidnap or "K" plan with you?

10. If your answer to Interrogatory No. 9 is yes, please relate in detail the content of that mention, reference, or discussion.

11. Why did you not inform the Philadelphia Police Department, the Pennsylvania State Police, the Federal Bureau of Investigation, or the Secret Service of the kidnap plan described by plaintiff McAlister in the aforementioned letter [Attach. 1]?

12. At the time of the August 17, 1970, Connecticut meeting plaintiff McAlister stated you attended in which a kidnap plan was discussed, were you aware of any criminal acts, for example, such as breaking in Selective Service System offices and/or destruction of Federal government files by plaintiff McAlister, Joques Egan, and/or Eqbal Ahmad?

13. If your answer to Interrogatory No. 12 is yes, please relate in detail the nature and extent of any such activities as to each individual named.

14. Specifically, did plaintiff McAlister or any other person relate to you modifications of the kidnap plan as are related by Philip Berrigan by his letter to plaintiff McAlister which is attached hereto as Attachment No. 2?

15. Did you participate in or were you involved in the break-in of the Selective Service System office at 3701 North Broad Street, Philadelphia, Pennsylvania, on February 6-7, 1970, either in planning the break-in, direct participation in the actual entry into the office, or in the subsequent concealment of the identities of those who did participate in the break-in?

16. If your answer to Interrogatory No. 15 is yes, please relate in detail the nature and extent of your involvement or participation.

17. Did you participate in or were you involved in the break-in of the Selective Service System office at 3207 Kensington Ave., Philadelphia, Pennsylvania, on February 6-7, 1970, either in planning the break-in, direct participation in the actual entry into the office, or in the subsequent concealment of the identities of those who did participate in the break-in?

18. If your answer to Interrogatory No. 17 is yes, please relate in detail the nature and extent of your involvement or participation.

19. Did you participate in or were you involved in the break-in of the Selective Service System office at 1421 Cherry Street, Philadelphia, Pennsylvania, on February 6-7, 1970, either in planning the break-in, direct participation in the actual entry into the office, or in the subsequent concealment of the identities of those who did participate in the break-in?

20. If your answer to Interrogatory No. 19 is yes, please relate in detail the nature and extent of your involvement or participation?

21. Did you participate in or were you involved in the break-in of the General Electric offices in the District of Columbia on February 7-8, 1970, either in planning the break-in, direct participation in the actual entry into the office, or the subsequent concealment of the identities of those who did participate in the break-in?

22. If your answer to Interrogatory No. 21 is yes, please relate in detail the nature and extent of your involvement or participation?

23. On or about February 7, 1970, did you file a Permit Application for a Meeting or Event to be held February 14, 1970, in

Independence National Historic Park, Philadelphia, Pennslyvania, as a Steering Committee Member of Philadelphia Resistance, for a reading of a statement against the draft?

24. Did you attend that meeting?

25. Did persons at that meeting claim responsibility for the aforementioned Philadelphia Selective Service System office break-ins?

26. Was that a "surfacing"?

27. Were you aware of the full purpose of the meeting when you sought the permit?

28. If your answer to Interrogatory No. 27 is yes, was the basis for your knowledge your own participation in the break-in or information related by another person and, if the latter, what other person?

29. Did you meet with plaintiff McAlister and Daniel Berrigan, then a fugitive, among others, on Sunday, June 14, 1970, as plaintiff McAlister stated by her letter to Philip Berrigan which is attached hereto as Attachment No. 3?

30. Did those present at the meeting discuss plans to enter Selective Service System offices in Delaware, and/or destroy or remove Federal government files therein, that week?

31. If your answer to Interrogatory No. 30 is yes, please relate in detail the nature and extent of the discussion and plans.

32. Were you in Georgetown, Delaware on or about June 16-18, 1970?

33. If your answer to the Interrogatory No. 32 is yes, what was the purpose of your being in the Georgetown area at that time?

34. On or about June 17-18, 1970, did you plan to rent military uniforms and to ". . . come in the front door & do the confrontation, get us out & we'd take the place out," as plaintiff McAlister stated in the aforementioned letter [Attach. 3]?

35. If your answer to Interrogatory No. 34 is yes, please relate in detail the plan and what action to that end you actually took?

36. Was the plan attributed to you by plaintiff McAlister in the aforementioned letter [Attach. 3] have anything to do with the entry into the Selective Service Systems offices in 38 South Street, Dover, Delaware, 109 West Pine Street, Georgetown, Delaware, and

3203 Kirkwood Highway, Wilmington, Delaware, and the destruction of Federal government files therein, on or about June 17-18, 1970?

37. Did you in any way assist plaintiff McAlister and/or a Judy in preparing a statement to the press, in getting it out, and/or in returning a rented car, on or about June 17-18, 1970, as stated by plaintiff McAlister in the aforementioned letter [Attach. 3]?

38. If your answer to Interrogatory No. 37 is yes, did this have anything to do with the entries into the Selective Service System offices in Delaware, and/or the destruction of Federal government files therein, on or about June 17-18?

39. Specifically, did you go "into the Boards in Georgetown with those kids," as plaintiff McAlister stated in the aforementioned letter [Attach. 3]?

40. Did you attend the "surfacing" in Wilmington, Delaware, August 7, 1970, with regard to the actions at the Selective Service offices in Delaware on June 17-18, 1970?

41. Was a torn-up Federal government file sent up in balloons at that "surfacing".

42. Was that your idea, as plaintiff McAlister stated in her letter to Philip Berrigan which is attached hereto as Attachment No. 4?

43. Did you participate or were you involved in any other break-ins of Selective Service Systems offices, either in planning the break-in, direct participation in the actual entry, or in the subsequent concealment of the identities of those who did participate?

44. If your answer to Interrogatory No. 43 is yes, please relate in detail the nature and extent of your involvement or participation.

45. On or about September 21, 1970, did you permit an individual to stay at your home, which individual was introduced to you as an AWOL Marine desiring to leave the United States?

46. If your answer to Interrogatory No. 45 is yes, did you make arrangements for that person to get in contact with a person or persons who you believed could assist him in leaving the United States?

47. In addition to the instance related in Interrogatory Nos. 45-46, did you ever harbour any person who you knew, or believed to be, AWOL from the armed forces, or did you otherwise assist any such

person(s) to leave the United States?

48. If your answer to Interrogatory No. 47 is yes, please relate in detail the circumstances of each instance in which you so harboured or assisted a person who was AWOL.

49. During the meeting in Connecticut, August 17, 1970, which plaintiff McAlister stated you attended by her aforementioned letter [Attach. 1], was there any discussion of a plan to destroy, blow up, or otherwise disrupt heating and electrical systems in Washington, D.C., or of a "subterranean project", "capitol utilities action" or a "D.C. Fisaco"?

50. If your answer to Interrogatory No. 49 is yes, please relate in detail the nature and extent of that discussion?

51. Other than at the aforesaid meeting, did you at any time learn of such a plan or project from plaintiff McAlister, Eqbal Ahmad, Jogues Egan, Joseph Wenderoth, Neil McLaughlin, Philip Berrigan, or any other person?

52. If your answer to Interrogatory No. 51 is yes, please relate in detail the nature and extent of that information which was related to you.

53. Specifically, did plaintiff McAlister or any other person relate to you a suggestion by Philip Berrigan to coordinate the plan with the kidnap plan.

54. Please identify and explain in detail the activities of the East Coast Conspiracy to Save Lives, Second East Coast Conspiracy to Save Lives, the Iron Mountain Group of the East Coast Conspiracy to Save Lives, and the 2nd Conspiracy to Find America.

55. Please explain in detail your involvement in any of the actions or groups named in Interrogatory No. 54 and any activities involving break-ins sponsored or coordinated by those groups.

56. Did you participate in or were you involved in the break-in at the Media, Pennsylvania, office of the Federal Bureau of Investigation, on or about March 8-9, 1971, either in planning the break-in, in direct participation in the break-in, in the subsequent distribution/ release of Federal government files and documents removed from the FBI office during the break-in, or in the subsequent concealment

the identities of those who did participate in the break-in?

57. If your answer to Interrogatory No. 56 is yes, please relate in detail the nature and extent of your involvement or participation.

Respectfully submitted,

RICHARD L. THORNBURGH
Assistant Attorney General

GEORGE W. CALHOUN
Attorney, Department of Justice

LARRY L. GREGG
Attorney, Department of Justice

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI (62-115389) DATE: 5/24/77
ATTN: LEGAL COUNSEL DIVISION

FROM : SAC, PHILADELPHIA (62-5421)(SQ13) (RUC)

SUBJECT: SISTER ELIZABETH MC ALISTER, ET AL v.
RICHARD B. KLEINDIENST, ET AL
(USDC, EDPA.)
CIVIL ACTION FILE # 72-1977

Re Bureau routing slip to Philadelphia, dated 5/2/77.

Review of docket # 72-1977 on 5/18/77 at U.S. District Court, Clerk's Office, Philadelphia, Pa., revealed this case is statistically marked closed, but actually in limbo as it was transferred to the Civil Suspense File on 7/29/76.

EX-103

REC-50 62-115389-93

23 MAY 26 1977

(2) - Bureau (62-115389)
1 - Philadelphia (62-5421)(SQ13)
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JAM
LEGAL COUNSEL
JTM

JUN 10 1977

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1273373-0

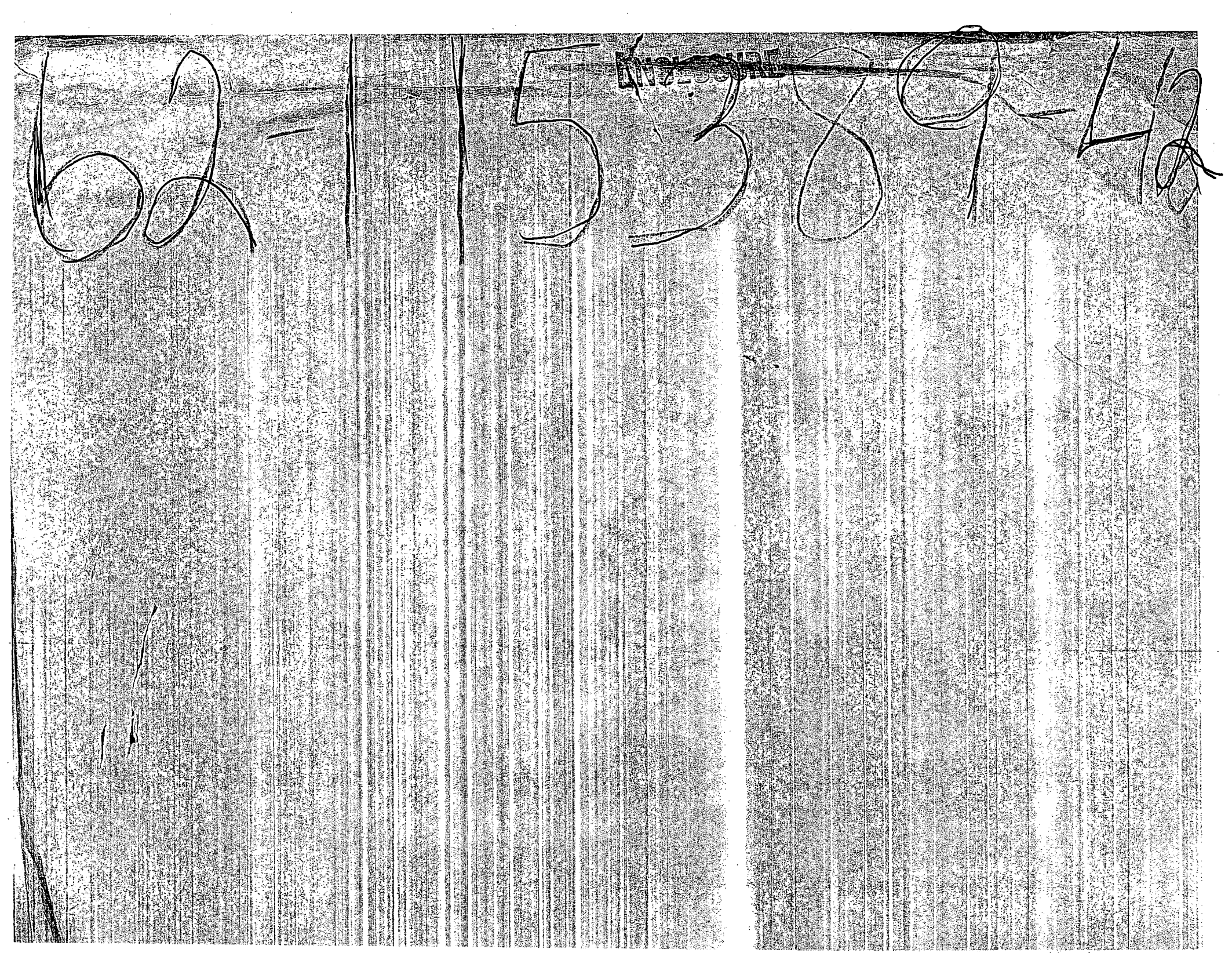
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Page 4 ~ Referral/Direct - 62-HQ-115389-EBF 28 / EOUSA;
Page 5 ~ Referral/Direct - 62-HQ-115389-EBF 28 / EOUSA;
Page 6 ~ Referral/Direct - 62-HQ-115389-EBF 28 / EOUSA;
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CERTIFICATE OF SERVICE

I hereby certify that I have served the Defendants' First Interrogatories to Plaintiff William Cooper Davidon this date by mailing a copy thereof, postage prepaid, to plaintiff's counsel of record:

Jack Levine, Esquire
1427 South Walnut Street
Suite 200
Philadelphia, Pennsylvania 19102

John Hyman, Esquire
Constitutional Litigation Clinic
Rutgers School of Law
175 University Avenue
Newark, New Jersey 07102

March 22 1976
DATE

Larry L. Gregg
LARRY L. GREGG
Attorney, Department of Justice
Washington, D. C. 20530
Telephone: 202/739-3227

groups in formation, lessening of distinction between new personnel + those working closely with them i.e. in ~~ops~~ operation they all constitute the community.

The missioner from the netherland was astounded by the chaos so we put him into a retreat for Sun-Mon. Hope that helped him build faith. Haven't seen him since last night.

Delivered the message to the gal from Kennedy. She knows the reality awfully well. Moment by moment constitutes the only way of dealing with it. The long run in this is too difficult to look at face to face. But the effort at deepening roots + finding what real, possible, etc. has occurred + the strength received + still communicated, the union of mind, purpose, heart are tangible at times.

Did write chief J.V. not as show of strength, protest or any such thing. Don't expect anything to come of it only hope it won't hurt but, God, it shouldn't. Was utterly simple.

Otherwise all's well. What this means to say is you're coming through loud + clear + that makes one huge difference to not only the effort but the life. Carry on there. You know the rest — only remember +

The 4 of us also thought (+ this is just for yer ears) of hitting the remaining eagle a day or 2 later in an explosive manner without letting anyone know before or after. Will see Greenblatt to get some pointers on it + see if he'll work with us. (anyone here means even our own people!)

Meanwhile back at the ranch others were hashing out some stuff. Sat a.m. 2 of us went up to Delaware to speak to some folks from War Resisters League about rally permit etc. They've been magnificient about the follow thru + have received no small measure of blame, threat, etc.. They agreed to get the permit + mobilize Delaware support. Also admitted that no Delawareans could have done it.

By now you've had reports of the wedding. Egbal + Paul appeared at the place but didn't venture in. Federal presence was second only to St Gregory's April 21. Rather than lead the gentlemen right to a session we split + regrouped at 8:30. Paul came but Eg felt he shouldn't. Went to a motel + agreed to meet them with a contingent later. But he stepped in + the gentlemen checked the register straight away. So he split saying he'd meet with folks in small groups later. This a.m. he called + is determined to write an article on the scene upholding the invasion of privacy, etc.. So we have to be interviewed on details!

Today a meeting with the 2 guys busted. High security thing all baffled up. It came off 4 hours later than scheduled. The guys themselves are great, are going under + this under advice from 2 lawyers one being the same guy who = Steven Cram (remembered the name). Seems false evidence was brought against them - a planted pipe in attic, guard testifying that Barry carried it in, etc.. Everyone in the state believed them responsible for the rest of the stuff. Were told on arrest: "If your friends come in here tonight they'll be met by machine guns." From W&O on guys were "hiding" in the boards, armed to greet us! They advised against surfacing. i.e. our surfacing. Felt it would be good for Delaware that someone do it - a large group. But people who later, when pressed, would all have alibis for the night of the mischief. Thing being: the witness value is there but specific charges can't be levied. We'll hash at this more tomorrow.

The Sat. night thing productive of much confusion. Only clarity being division into regions with liaison person in each. N.Y. elected Forty + Judy + I are determined to make him pay up. We'll see. Maybe the only way of mobilizing the guy + if it doesn't work he can be changed + ousted. Ball + Neil + Sue D. Phila - Bell Davidson + I think Galvano from Boston (not sure). Otherwise - serious limitation of personnel in any

ON COMMUNIST INFILTRATION INTO
THE AMERICAN SCENE

It's been going on for years unbeknownst to most Americans and to their greatest detriment. Today's NY Times ran a 1st page article on the extent to which it has gone via computers, etc.. Quite a piece but no revelation. Only at the end of a weekend such as this it had a particular ring to it. The progress of the police state.

The first session this. productive after it finally got under way. An examination of how, in present circumstances, to stem the flow of the above process. The considerations:

1. The need for some manifestation in the state in view of the predicament of 2 brothers seized neither of whom wished their names to be known - ever. (N.B. Saw the piece on their arrest. Clearly stated that the customs house had been tipped off about the Wed. night circus. To believe or not to believe! More than possible.!)
2. The possible political effectiveness of a large group coming forward for this. More & more this seems right. Long session Mon. night with Paul Mayer on this & he is most enthusiastic about it as a means. Tomorrow a.m. those working chiefly on it will get some tips from him.
3. The need for this almost as a protective device, what might turn out to be an effective form of healing the situation further without anyone being burned but those on the law & order side. Moreover if there is truth to the fact that the Man is making better love traps & his tactic now is to let the birds lead him to the whole flock so that it might be netted as one, this would confuse matters for them considerably. May also be a device for further, more jeopardizing situations which would yet wish to remain public.

Out of this the decision to go ahead with it. 4 from our group. About 6 of the Philly folk on condition that there are 35-40 other names. Date - July 14th, 12:00 noon, the green in front of DuPont Hotel, downtown, Wilmington. As many signees as possible to be there. Someone to focus the issue (perhaps a speaker), the statement, Sunday yet-to-be-made statements, a liturgy of destroying perhaps a single file (Bill Davidon suggested sending them piece-by-piece off on a helium balloon), others suggested a march to the customs house. Don't know. Thoughts welcome. Not much thought given to that yet

The charges against the 2 were illegal entry, etc. The effort will be made to track down the whole group through them because the Feds aren't stupid. The wedding is a real legitimate excuse for coming together & we can build from there.

I could go on & on but my hand is getting tired (as you can imagine must be). Here is the story. At 12:00 on Thurs. we were heading to Avalon & then Tom called. At 12:00 on Fri. we had just arrived in Chester with the 2 in jail. They were to be released today after a reduction of bail hearing. Frank gave a phoney name in order not to implicate others. This may be a huge hassle! Unsure.

After all of this, what to say to you. In the words on an Italian S.T. — you know what is in my heart! Courage. Love. And be free to relate to that community. All the while of only power for you. Now a day short of 2 months. Trust, Love & always, Grace.

work with them but said that that board should be done. It seemed a choice between me + Tom + Lil. I had come to John Swinglish's + Sean's defense for their treatment the other night + they stepped on me. They didn't mind because it enabled them to accomplish the work + that was important. Davidson was speaking - for the first time - like he needed love from this group. He had acted all week like a well oiled machine + now couldn't even do that. I'd weary you with details. It was extraordinary. The group united & rose to cut out. We needed each one. We admitted our failing + forgave one another. When everyone was saying we should just relax for a while together Frank said that what we all meant was that we should do this thing now. Enter today prepared to spend the weekend with outside surveillance + communication to move against the Board at whatever point there was only one or 2 places blue. We reviewed the plans. 2 were to go in by 11:00 + the rest re-collect the necessary equipment + follow suit. A remarkable consensus with the energy coming to each from the whole group.

Put en route to Chester, we saw 2 Feds at the shopping center + they were headed toward our board. Followed them. The place was surrounded by Feds + cops + we knew they'd been busted. So up to Chester to work on getting them legal help. That was yesterday. The sense then was that for security sake as well as to eliminate paranoia, when they were released we should each go home + come together again next week. So here I am.

Joe + Neil were here when I arrived home about 11:30 last night. We talked the thing over. They had found it an impossible group to deal with; Annie Walsh had been very hurt by it - as Joe said because it got away from her. It did. Hostility from Neil + Joe I guess from most people. It was a difficult group to be part of but I'm not unhappy about that. Tonight we're going to try to see Eqbal + pick his brain. The surfacing must be planned the about now only 3 - 4 at most - are interested in it. The rest will probably split out another target. I can't say.

Then someone returns with a report that the marshal (armed) as well as guard is in the bldg. We are certain the whole plan has been known the epitath being: "how could it not be when about 500 people know what's happening, where + when." This report is checked out + verified, then the session toward decision. But each idea of dealing with it is stepped on. This, I felt, was part of Davidson's plan to form + manipulate a group + do it "his way" wholly + entirely. Norma's idea was accepted. The decision was to drop it for a time. I fought long + hard not to but was defeated. So we closed on the State thing + made lists of who was needed + decided to drop the rest, send them home, & have a brief session in the a.m. + explain why + put that on the agenda for a total community meeting next Fri. night before Tony + Mary's wedding. Out of that should come a new, perhaps more effective communications system without the unnecessary communications which create greater jeopardy. The dismissal of the forces + the establishment of the plan before entrance I was asked to the forces meeting.

Entrance easy + the 9 hours on the platform very comfortable - well relatively -. The action c.c. was used as a battering ram at L.L.'s insistence of the 3 guys there i.e. like dirt. They tolerated it heroically because they wanted to see the thing done. A message came in over the walkie talkie (they used it very effectively throughout) that Wimmer was clear, maybe possible. After the exit, a meeting, in Quaker fashion, up the road a piece which literally drove people out of their minds - paranoia. I went down to Wilm. then with Judy to review the scene. By the time we returned everyone had split except Paul, Tony, Mary, Judy, Sue Dave, Sparry. I thought to the house in Avalon. Judy + I had to go up + meet with Bill Davidson prepare the press statement, + get it out + return the rented car. The drive was reflection time + putting things into perspective. That board had to be done. Our community which was geared to action had lost its purpose + gone to pieces. I wanted no part of an exclusive group of 8 + preferred the reorganization of the total community indicated above than a tight Gestapo group directed by Tom Davidson. The Philly Reds - a beautiful group - were anxious to see it done + would help but our people had first option. Arrived back

about noon + resurrected all who were there + gave them the picture. We were leaving to a decision to go up to Avalon discuss it + invite them back to finish the job. In the midst of this a call from Tom Davidson asking who'll all doing the job. "We're on our way then, he said. "Who?" Everyone who came up here with me? We'll get back as soon as you can. We'll get the plans set up + begin.

We thought a miracle had happened. So Judy + I went in to the Board. We were there biding for 2 hours. Finally a blast from Davidson over the walkie talkie. "What the f— are you doing in there..." Judy was running the thing. I got it waited down. No idea of the provocation when we were waiting for them to enter any second. I said to Judy — Let's leave. So we marched out + we... owned the place + exchanged time of day with the guard.

Came out + found Mayor Sue. A second phone call from Tom let them know he + Lil weren't in Avalon. The group knew nothing about it. There was no community to do this thing. Many came in to beg to head us off — but we were already in 1/2 an hour, She communicated that back to the front. Tony, Paul, Bill Davidson + Ted Glick were formulating on the spot plans — they would rent military uniforms + come in the front door + do the confrontation, get us out + we'd take the place out. But Davidson, rather than plugging into this, came in with the only other walkie talkie + blasted us. Mary, Tony + the whole crowd were mad as hell. We came back to Leonard + Judy, Tom, Lil + I with Tony + Paul had a knockdown, drag out session. Meanwhile the group is en route from Avalon + Thom + Sue are watching the bldg. Afterwards I returned with Bill to pick them up. Came back + word was sleep till they'd Quaker arrive + we'll have a session. But I woke up about 3:00 a.m. + Quaker was next to me talking with the evening remnant. He left + we were nervous. So we sent the deputies off to Chester + the woke up the 8 + began a session about 5:00 a.m. (maybe 5:30).

I can't describe that one. Tom + Lil were already reached + shaken by the previous session. Judy + I had felt that all we accomplished was to hurt them. I called Curtains in further

trust that must exist without a lot of communication, a trust that frees each party in a relationship to be concerned about & responsive to the community immediately before him/her. This as opposed to the weakness that demands togetherness such as his appearing at the hospital where Freda lay ill with the FBI patrolling the corridors.

Afterwards a listing of what remained to be done with Jolly Roger. Then return home. An attempt to review this with Joe & a silence. In the a.m. a trip to the State place to have the platforms for the bed-in. On return a group was hashing it out with Joe & we had had a visit from Seminary officials with another eviction notice. So Judy & I went up to the Seminary to explain our presence there while not explaining it. The forces called auxiliaries began arriving en masse & the place was surrounded by cars from every State in the union. Joe meanwhile had sent away Mother, Gail Peace, Black Friend & dog. Some of us began working on a statement & at the same time I on cars etc. Monday night and the media, a meeting of the Steering. Joe's report out on the next days work together. Overriding personality differences, we went to do this, yet. OK. This ain't the way to operate. As soon as this is over we act out to a place known to more security (& applying some of the reasoning, I might add, to a situation totally out of proportion). What appeared at that moment to be togetherness was a collage organization received well because there was so much chaos & so much to be done. But the spirit was somewhat out of keeping. The agenda had been prepared by a few & the rest of us hastily welcomed it. But it was as I was uncomfortable with it. Seems like an exclusion factor.

Afterwards the 2 sections each had sessions on plans & approaches to their own target. Tues. a.m. typed the statements, met Peggy at the plane with Anne Walsh who was just dizzy over what was going on. Called about a lawyer & cars & went to reserve cars for rental. Tues afternoon can't remember what happened. I went to Wilmington (to rent a Van) but went with Craig who wanted to do timings. All the while uncomfortable with not being back working on plans for the schoolhouse. Got the Van & drove home. Did some stuff with Tony on cars & on where people wanted to go afterwards. In the meantime there are police outside the house watching this mad scene & paranoia grows.

Principles of Organization:

It would seem that one learns how to organize a community by reflection on the errors one has made through that process. What is needed is the willingness to review the errors and to apply the lessons.

So the story of the scene: the errors should be apparent.
But first — forgive the silence from this end. From Sunday until last night i.e. Friday it was an on-going quickly developing scene. There was not a minute to write much less to really grasp what was happening. Then the scene changed so drastically with every minute that it was impossible at any moment to say where it was at. Even the promised calls became impossible to fulfill. Those hours Thurs. + Fri. were both crucial. Never, since we began this, have I left this much time go by without a word to you. I'm sorry but beg you to understand + know that you do.

Sunday return to the scene. All were at a picnic. Davidson entered as soon as they returned + a cloak + dagger scene outside with Frank, then a message to Brother Tom Davidson and Joan de Nado and drive to a motel + rent a room under such + such a name. The exit of the rest did not go so smoothly. Everyone knew but noone knew what was taking place + security lead to misunderstanding + bad feelings. Particularly for Joe Gilchrist who, out of some logic of his own, had his mother, his girl friend, a black boy friend + girl friends dog already on a very complex scene. Through the weekend there had been some bad feelings expressed about their presence there + he was angry + hurt + feeling that these people mean more to me than those in the group or this action. Sun. night it came to a head when his 3 were not invited to come for the session. We started out then just took off for a silent drive + went home. We sent someone after him which delayed the arrival process + forced our visitor to drive in circles for a couple of hours. Then session was good. We discussed the guard + our decisions to confront him + then was agued. We discussed i.e. fought about the confronting + he listened + said get each one to publically renounce history a file + put their names down saying they did it. This was more or less received but with some reservations. The final phase was the new kind of relationships we had to begin living - along the lines that we have already agreed upon. But beautiful. The kind of

see, and help his imagination under repair. If the circumstances in our last page is accurate, and if they're caught - there'll be a monumental smash-out - it would mean life. Don't like to be considered. (Newpar.) Sinclair can't single-handedly manage 2 or 3 more discreet work. I would imagine that he would have chances in his car to call for police assistance at the slightest danger. The thing to do is find out where he goes for weekends, or where he shacks up - if he shacks up. (Newpar.) I don't think Eg can handle his own team on this - he'll probably need help. But a sense of boldness and modesty should be kept on them. Furthermore, I don't think he'd be the easiest guy to work with. Mind you, the criticism comes with love for the guy, with gratitude for the past months, and with a recognition of his intelligence and talent. Execution is good - a few wrinkles there - but perhaps these have already been ironed out. (Newpar.) Just read your two letters (15th + 16th) over. They're not dull at first day. You come through beautifully, if with restraint. And I get all the innuendos, and delight in them. You're too big for humanity, Chum Pisse, which means I'll have to grow in order to compete. I surrender well the (yeasage)
Sun. inquisition - how you read the manifesto to me - thought that was superb. You anticipated the women's lib thing, and with complete justice. Apart from that, we went on to even more obscene gestures. Astounding the recovery you made from a bitch of a summer in Europe, and the mess in England. (Newpar.) Am writing this on Bon Accueil - the Cantal is a bit of isolated stuff. The Pic Tenny is a mountain, but I may be wrong sometime in a year or two away. Don't know what to say regarding the Martinique thing - he might move in the East, but he might not. Daniel is fitter to suppose to be doing some specific work there - but he's an eccentric, unpredictable type. Think safe that Carol + Tony have gotten to San Juan safely. Don't suppose you'll have great difficulty handling Nadine on the visiting thing, but if you do, manage together and to me. Not that matter, you can't recalcitrant. (Newpar.) I wonder how the way the Old Man does with you, in contrast to the passion that Pauline Kael recommends is a good thing. Should say that you've made Olympus of all the climbs and Bru, and from you've come to: Be-well-steady thing good from here and from the Front.

8/24/1

(Mr.) dozen more, one big one with the outreach the suicide. But even if that were possible, how can it be guaranteed that they would collect their income any sort of prosecution? Then too, the common view is that it is the resolution of honorable withdrawal from S.E. Asia, and is one of the liberals beliefs that have to get the truth out, ie. that the economy needs war, and it would be there as the index, and that we intend to stay. That might mean a Korean type censure, but then we'd have to set it up ourselves. Or go into the discussion of more serious obstacles, using unemployment at home. This is what should be got Hen from K. but can the liberals do it? (new par.) Now he likes, I like the plan and am just trying to weave elements of modesty into it. Why not coordinate it with the one against capital utilities - you should talk more thoroughly with the Chicago about this, or with Little Shaw or Beggie Berman. To discuss them, and then grab the Brain Child - this would be escalation enough. (New par.) This comes off the top of my head. Why not grab Mr. Brain Child, treat him decently, but tell him nothing of his fate - or tell him his fate hinges on release of pol. people as creation of air strikes in Laos. Then have batteries of movement people - Brain Child blindfolded - engage him on policy. After he has been taught (the consideration of his safety will make him more and more human in his answers) get it filmed and recorded. One thing should be implanted in that pea brain - that respectable murderers like himself are no longer inviolable (this should be done just before release). And that if he doesn't work to humanize policy, the likes of him will be killed by less scrupulous people. Finally, that political prisoners are the best guarantee of his own skin's safety, and that he better get them out of jail. (New par.) Taken along these lines, you have both a material and personal confrontation with the warmakers. The trick to pull off is to hit them very, very hard without giving them violence to react to, or justify themselves with. (New par.) He can be kept blindfolded, and participants can wear stocking masks + disguise their voices. It can be done and brilliantly. (New par.) I would air Eg on it immediately, but tie it in with the D.C. 8/24

(3)
where Dan got several kinds of education - not just philosophical or ideological. But the Communal thing, & the Eucharist, and the kind of silence that we've had before, and which here taught me so much. (New par.) It occurs to me also that you might reflect (in #2) to confab with Dan about including the inner circle. To be frank, I've thought a lot about this since a move to Bombay came on the horizon. And decided against it, that is telling him alone. It strikes me that we should announce this new development of sacrament together, or not at all. In any event, you can clear up my confusion about #2 when you come to Danbury. I hear that visiting is much more human there, more frequent etc. (New par.) Now we come to #3. Just between you and me, I have never been overmuch impressed w/ Eq. He's dear friend, very helpful in the last months, lovely guy, good ideologue, but a tall to produce. I think the role of man from Missouri is the surest one with him. (I have this terrible suspicion regarding academics) With few exceptions, the bastards will let others go to the gallows without a murmur. They did it in Germany and they're doing it here. And Eis from that strain. You see Rose, the beliefs isn't there - String fellow at least believes in something. But I see more necessity - I'd be delighted to be wrong. (New par.) About the plan - the first time I gave the door to murder - the Tupamaros are finding that out in Uruguay - I hope you're following them (Last issues of the Guardian). When I refer to murder it is not to prohibit it absolutely (violence against non-violence bag) it is merely to observe that we have set the precedent, and that later on, when point of resistance to this sort of thing stiffens, men will be killed. More to the point, the project as you outline it is brilliant, but grandiose. I've found, with bitter experience, that when people opt for too much, they're either stupid or egotistical (another word I might have used is E[illegible]) which is to say that grabbing the gentleman will take a force of, say, 10 of your best people - guarding him, getting communications out, perhaps moving him 2 or 3 times in the week. Now, in addition, to [illegible] a prosecution of this kind would take

8/24/

(2.)

and we'll remember it. I was justly proud of you all, and the best part of the afternoon was all my past glowing fervor, and knowing that the best elements of statue yet remained (New par.) We had an industry strike here Tues. and Wed. There were 12 months of gratuity in the thing, but no brains, and no organization. Being such, the strike appealed thus small and I'll not go this week - next Tues. or Thurs. would be more likely to get 2 from you via regular channels in addition to the heavy one. Bless you! What can I say? (New par.) I don't know precisely how to answer #2. I presume you refer to a visit back here after a sojourn with the brew. Unless the new piece offers unusual potential, I could be partial to that. As I see it, there's no overriding reason why we should be together longer than a couple of months. Our approaches to the movement are quite different - then is a superior propagandist, and does it incomparably well. But I have different views about priorities, as you know. Then in #2, you make reference to a "coming out." As I might have told you before, I would come out only if the movement is much more than it is now - I mean generally, not our crowd - or if it became clear that the feds would stick firm with the 6 yr. bit, which would mean another 3+ mos. From this viewpoint, that would be absurd, and I'd take my chances on resisting it. You know, if there's no reduction in the offing, there's a good chance that national legislation will be passed in the Fall which opts for release of 1st offenders with 1/3 of sentence served. We'll beat them one way or another. (New par.) I don't know what effect I and position + mine has had on our people. I would like to think it had none, which is to say, your confidence here, is well founded. Will you permit me a little compliment, Victor? The big difference starts largely with your coming in. Will you permit another observation? My affinity for you was not wholly personal - I would have been a fool to ignore what you had to offer the revolution. Re spirit - you insisted on your own freedom, you had incomparable generosity and you loved the Book of Jesus. I was all there, and one morally had to give it time. And when this odyssey is over, I will learn from you - that only I want six months to do the books, and get my head together in an atmosphere

8/2

1

Draft 8.22-70

THE USE AND EFFECTIVENESS OF GROUP THERAPY IN THE FEDERAL PENAL SYSTEM.

An emphasis on relationships seems to have spawned a growing tendency on the part of final administrators to have inmates do more personal contact with one another and with staff members. Inmates erode to provide a setting for improved acceptance of one another, as well as an opportunity to discuss community questions.

The new information about Haynes back-fired memorably a week after the contraband hunt, he called me in (with the Captain there) and the letter which he had dreamed and fractionally memorized. He didn't attempt to go over the personal aspects of it with obvious relish, as though to say - "So! you got a thing goin'? Just like Martin King, huh?" He wanted a confession, and I laughed at him and told him he had no evidence (he hadn't caught the charge with it). Then I picked his brain for a while, and he got furious. I told him if he had suspicions about you and me, that he should drop your privileges after I wrote you taking full blame for the mess. He said that wouldn't be necessary. The next day he accepted the charge telling him I had confessed everything. After that failed, he suspended your privileges and put me under "heat" which I allowed to develop until I had enough on him to pull the chain. And he took a very bad whipping on the interview he gave you. As the cons would say, he was mean - I caught him in that bad part time fragrant lies. In a word, you spooked him also and he could do nothing but hate you for it. Because I'm convinced he got your letter. When anyone plays to his ego and gives him the illusion that he has control, then he will play plenty of his own game, maintaining a saccharine tolerance. But call his bluff and he acts like a cornered rat. The warden saw this, and assumed more & more control of the discussion, while what he said made less and less sense. Sacramento broke & came in that he had given you a rough time to go, but didn't know how bad to extent. So a real education - the days at the top, Nixon, Mitchell et al, will make him look like a Knight of St. Gregory in comparison. We'll see it yet, 8/24

- ATTACHMENT NO. 2 -

trial to be released to TV etc. is phenomenal. Then, his aspect of the war will be at least impeded by his absence + the involvement of all close to him in an investigate of his whereabouts. Think about it + maybe when I see you in Danbury I can get your thoughts as well as fill you in on where the plan lies. Otherwise I'm meeting with Paul Cowan this afternoon, with the Merton-Buber House folk this evening + later tonight with Lee Lockwood, a guy doing an NET documentary on Buber + you + wants some help. Be on in about 3 weeks. Tomorrow a meeting at the college in T.T. to work out possibilities there followed by a session with Jim Forest + Judy to work out more immediate projects + possibilities. Paul Mayer is en route to Cuba for that international resistance thing. He'll be gone for about a month so the Picatinny Arsenal project can't really get underway until he comes back. That's, as I believe I told you, a long term thing. The aspirations have to do with a series of sessions with some of the engineers who work there who have shown interest in a more intense strain life. Over a long period of time - or not too long to bring them to the point of some mini-sabotage against the place themselves or at least aiding others to do something there. Paul has some contacts to start with. These guys have been coming to Fr. Martin at the Abbey in Newton for Pentacostal meetings for the last 3 years! Incredible! As I read it, you should see Warren by Friday. We've had almost daily contact with him. And Jogues is now out to lunch with a gal who'll take up the Northrop + congressmen thing. That's basically all the news that's fit to write +, God, B.D.Q.! One thing I will say is that it's far easier to write this than the other way. The letters thru usual channels have been eeked out + are undoubtedly drab + dry as dust. What may seem here to be complete control of a situation, you must remember is part facade. The old man, both in Pauline + my own terms, lives on sometimes with a concreteness that is almost torture. What that says is both good + bad, a mixture I'm sure you're familiar with. Right on!

8/2/70

in utter confidence + should not be committed to paper + I would want you not even to say a word of it to Dan until we have a fuller grasp of it. I say it to you for 2 reasons. The first obviously is to get your thinking on it, the second to give you some confidence that people are thinking seriously of escallating resistance. Eq called us up to Conn. last night along with Bill Davidon who, in case people have not told you, has become one of our better people. Parenthetically someone with a knowledge of the scene, a keen sense for tactic + detail + little fear of risk for himself. He's the most central fig. in the Phila. scene + went into the Boards in Georgetown with those kids. Eq outlined a plan for an action which would say - escallated seriousness - + we discussed pros + cons for several hours. It needs much more thought + careful selection of personnel. To kidnap - in our terminology, make a citizens arrest of - someone like Henry Kissinger. Him because of his influence as policy maker yet sans cabinet status, he would therefore not be as much protected as one of the bigger wigs; he is a bachelor which would mean if he were so guarded, he would be anxious to have unguarded moments where he could carry on his private affairs literally + figuratively. To excise a set of demands e.g. cessation of use of B52s over N. Vietnam, Laos, Cambodia + release of political prisoners. Hold him for about a week during which time big wigs of the liberal like would be brought to him - also kidnapped if necessary (which for the most part it would be) - + holds a trial or grand jury affair out of which an indictment would be brought. There is no pretense of these demands being met + he would be released after this time with a word that we're non-violent as opposed to you who would let a man be killed - one of your own - so that you can go on killing. The liberals would also be released as would a film of the whole proceedings in which, hopefully, he would be far more honest than he is on his own territory. The impact of such a thing would be phenomenal. Reasons for wanting to do it: it will ultimately be done by someone here + end in fiasco or violence + killing. Eq wants to do it + do it well + I believe he before anyone else does it has the know how to direct such an escapade. The major problem, as I see it, is the severe consequences for something that is largely "drama" with little lasting effect. Second problem I envision is position of something like this in a movement context i.e. what next. Some thought would have to be given to that. It seems at least possible to have 2 fairly distinct groups on the one hand the felons who have a scant chance but a chance of remaining anonymous + the big wigs who will provide the "public" aspect of the action who are protected by their own position as "captives" also. The concept of a film of the

The Lot of Political Prisoners in the Federal Penal System:

Before engaging a question like Federal Penal System policy toward Political Prisoners, one must provide a context for its operations, both national & local. Otherwise like a few behaviorist penologists, one deals with penal reality as an isolated phenomenon, subject in no since to deeper causes. In this limited view, the inmate becomes one victimized by a backward penal system. Time considerations being what they are guess this will be the last effort along these lines & this may even come too late – who knows. There are basically 3 things I want to let you know. First, by way of reaction to evaluation of the top level thing. It is my guess that H. got the 3rd letter claiming rights for reinstatement. This for 2 reasons. His attitude toward me was a complete about face. He was out for blood (mine) in at least the 1st 3 hours. And that wasn't expected since he claimed he didn't get it. The letter contained a criticism of the NY Times piece of the guy who was given a look at you & then went on to ask for reinstatement. Evidences of this new attitude were plentiful & none of us could have missed it. Nothing would stop him from reading a section of the contraband & going beyond the issue into a personal note was more than accidental. He told me I was the most selfish person he'd ever met etc. I Refused to be angry or respond on that level. He was clearly distraught by the whole thing & is a violent person – a violence he failed utterly to control. I would not exactly say it was a productive thing although I feel some understanding was created. You would know best the outcome & effectiveness, if any. But then we did not know what to expect or what we wished to achieve. The best part was seeing you & the old fighting spirit & to know first hand that beyond physical confinement, they had no control over you. Funny – was always able to tolerate these Group sessions that demanded such discipline because there would usually be a space of time later on when that could be let down. The horror of Fri. was that there was no space afterwards & I only fully grasped that later that night. In all our efforts to face reality, in some instances it still eludes us. The second is the proposal that I/s jokingly I opened to you in the corridor. If you would like it – now or some time later – we can do it. See him & talk to him about it if you wish & think it over seriously & we'll work it out En route to Danbury might be too soon at this point to do anything. Either while there or a later passage is subject to discussion. We can also arrange it "non-violently". I say this not to exert pressure one way or another. The future is an unknown – except in certain status quo areas & I don't have a preference for the exact lines that future will take. I'm open to all sorts of possibilities & the reality will undoubtedly be "none of these." One problem I have with that (i.e. either you or D. coming out) is that it says the movement can't go on with one of you / or both. And I'm arrogant enough to think / believe that your being where you are is enough to make the rest of us get off our tails to prove that it can. Which leads me to #3 & this is

8/21

Boyd—

The enclosed is dynamite + I mean it. The proposal (# 3) is something noone + I mean noone should know about. I want his wife to for the reasons indicated + you must of necessity. So it's something I'm entrusting to you. I want him to get this letter if at all possible, if not at least the contents of it.

How are you? Loved the time spent in Lewisburg. You have a beautiful community there which needs only someone within it to urge it to action. I kind of think, at this stage, that that is essential. They've seen enough of outsiders + know the facts. One of them must now take the leap or an action must be done there by an outside group + let them work out the follow-up — that as a 1st stage in resistance.

Listen, I'll call Friday at 4:00 at the 524-0038 number. If you don't answer, I'll presume you haven't gotten this yet + try for Sat. at 12:15. We didn't set up a time + I don't want to call the house so this seemed best.

Lots of love to you + all

Liz

8/21/70

CERTIFICATE OF SERVICE

I hereby certify that I have served the Defendants' First Interrogatories to Plaintiff Elizabeth McAlister this date by mailing a copy thereof, postage prepaid, to plaintiff's counsel of record:

Jack Levine, Esquire
1427 South Walnut Street
Suite 200
Philadelphia, Pennsylvania 19102

John Hyman, Esquire
Constitutional Litigation Clinic
Rutgers School of Law
175 University Avenue
Newark, New Jersey 07102

March 22, 1976
DATE

Larry L. Gregg

LARRY L. GREGG
Attorney, Department of Justice
Washington, D. C. 20530
Telephone: 202/739-3227

we decide will be based on that evaluation + on a desire / need to do what the circumstances demand be done rather than on any wish, however strong, of yours or mine. You'll need collapse spots + given a measure of freedom, I'll search them out (promise) + dialogue session as well as some liturgical experiences where communion is possible rather than receiving the Lord alone in a locked chapel. The whole right arm for such a one at this moment, the desire is that strong! This by way of response. In the a.m. will give you the new wife such as it is. Meanwhile good night —

good. Re: Eg - he's been terrific. We didn't want him en evidence because he is of great value to us behind the scenes. I might say it's known not this gal, who's responsible for calling him into the circle but we all profit from him. Re: Fatso, it might be a touch of consolation for you to know that he was in on the Philly appearance last week which is a way of saying he hasn't totally left the scene but he has disappeared from ours to a greater or lesser degree. But if you can keep up with him, 'twill help, I trust. Since I'm taking the pages bit by bit, I've just come back to the fall reflections. By way of clarification which may be more confusing I don't know, the living base in any event will be NYC + that depending on the new administration decision might even be back to 65th St. They are not happy with their quarters - inadequate - + are still searching out others. If they succeed, we might be able to use the house. If not, we're still searching. I do love the old place - many great moments there like a full history. Re Jogues - she knows what exists both here + there + as I told you long ago, she guessed or sensed it. Of its mode of expression, she has no knowledge + could not guess + would probably be very hurt by it. She gives ole P.B the needle because of his arrogance which she accepts because she loves him + that is part + parcel of him but which she still finds necessary to pinch from time to time. She's good - real good + is part + parcel of the whole endeavor. Got a feeling the blood line (Jerry at least) has the same sense of it as Jogues + watches for indication of weakness in face of this long haul + is willing to put calcium into the backbone for strength. The weakness is there betimes but damned if I'll let it show particularly on that front. Being of the same ethnic stock I know nostalgia well but unlike you I have no horror of it. In fact find it absolutely necessary for survival. And I indulge in it when brief lapses allow + when places, people or situations provoke it. By later introducing them (blood-line) to the inner circle, have you any sense of when later is - when you're finished there or before? I find latch absolutely impossible to envision which is part of the reason why nostalgia becomes so important. I would probably agree that depending on the circumstances, that letting them in might be necessary. Agree too that when you're finished there a lot of time must be spent in evaluating what is happening + what still needs to happen + I know that when we do, whatever

request the visit, would you do this (+ this is important + was my assignment out of the meeting. They don't know much about the institutional inner workings + figure you would know best. They'd check with Buchman first. I figure he hasn't been up to see you since you did not mention it + these folks are really keep on it.) It would still help to know which congressmen you wrote to in order to get + keep people on them. Can then give that as a definite assignment to someone. It won't be Pat Channel. She had a nervous breakdown last week + is in bad shape in the hospital but Rosemary Ruether + her committee would be good + some other we can dig up here in N.Y. I didn't pursue Genevieve + Geddes - Pete Forty did. Must admit I have long since seen that as a lost cause + was not in favor of digging it up. I just we the meeting hoping to salvage something out of it + true to f Gen showed up but silent + Geddes designed to boycott i Forty won't move until such a meeting can be had. A in O'Rourke there is more hope. But immediately aft got tied up in this Smit thing. Ned tried to caution his status but they laughed it off + wouldn't con it now stands Smit, feeling discouraged + perhaps s to have left the scene (the search of Eg's place may a connected with him - may be connected with th appearance) but if + when he reappears they (th be counted on for the test of him. Stringfellow to get to you I think but he's now or soon will be with him which, in his thinking or that of the dr necessitated his withdrawal from our thing to authoritative word on that came from. which i dry for a speaker. I could tell you where ev liberal in the country is at this moment + they all failed us. I can't totally bla some we came late to the trees in re sense of urgency in them for the mo quick in shipping off to Japan, E Hawaii + some obscure corner of guys who signed th thing with fear who inspired + gave you but safe big names. Becaus we let Dodd go without pr

m Buck is a rare combination of things with a host of political contacts + movement history + a great admiration of you. Saw him Wed (this is Fri.) + he is still talking about a correspondence between you + Bill Anderson, David + Hawks + a couple of others. Open or closed, you'll be asked for a response to certain key questions (about 5000 words ea.) + your (collective) responses will be edited by Buck + Zinn (the former has already spoken with the latter + come to some accord on it) into a volume. He believes this will get underway sometime after Aug 16. I want to wait + see if he's as good as his word. His problem seems to me at this point to be too many irons in the fire. As for Kendricks, I doubt whether he would share with you my second letter. After a good deal of thrashing about it, I combined my request for reinstatement with a criticism of ① the Bureau + ② his handling of NY Times thing. It was a very strong thing + I have no way of predicting his response but felt that since he was sweating, might as well keep heat on. Besides, it was downright honestly what I felt. Again, Hope it doesn't create more problems. By the way, yesterday we got the report from the Bureau which is atrocious + an insult to anyone's integrity + intelligence. If I don't enclose copy now, I will send it on a little but we plan a strong response to it which we'll also send on. It may require another visit. Understand Coles is hard on your case + Bruce has all his hope in him. Re: Agent Walsh - heard a rumor that he phoned the "local hopeful disappointment" asking for Frank. Any truth to that. He tries to play it cool but loses the cool very quickly. The 3-lettered friends searched Eq's place yesterday while he was away. On return this a.m. there were 3 of them stakeout outside his house. He called the office in NY saying if they weren't removed in an hour he would put it in every paper in the country. Ostensibly they're gone. #3 is good. Much of it I've seen in piece form so it was simply a review process. The piece on "Cat" particularly good in itself + by way of a vision into the old man! Will look forward to #4. Glad we agree on the cover - could do better myself! Haven't seen Harold since but will soon. Had a session with Warren yesterday. He called us in to meet with the staff there - Peter Weiss, gal named Nancy + another guy - all of whom are interested in doing what is possible on your scene. They'll get the file from Blackmar + want to see you + get your ideas + hopes. If you meet

will take to the streets. There are better things to be done but they can't be expected to think of them. They are willing but need some direction. There we are anxious to build up a N.Y. area & have nothing to work with. Judy (who is a Sister of Charity, studied at Columbia U., lives on 117th St., was part of the Delaware group but because Wilmington had to be crossed off did not get inside & is still anxious to do her thing & has worked long & hard on the surfacing, is about my age - a year younger or older (we've never gone into that kind of thing), has arthritis to a semi serious degree, very thoughtful & committed & you'd like her but I'm not worried about that - you've asked twice about her!) - long parenthes - & I have talked a lot about this & feel that to build up a N.Y. area means some very modest actions to get some people to work with & Westchester could be good targets because easy & because there are resources there that can be called on. The resources being some of our conspirators who, by the way, are anxious for something more than $ involvement. One woman, in the process & in presence of a group of 18-30, said that someone should come & show them how to do their own boards. What I'm trying to say here & none of this is too logical because I'm trying to say too much, is that anyone ~~who~~ with whom I talked (at least 70) took their commitment to the conspiracy with utmost seriousness & they shouldn't be let to drift away. At the same time as I'm concerned about developing them further I know what you said that they could become all consuming & could absorb time that should be otherwise used. Along with the C9, B4, M14 etc., there is now the Delaware 302 (or 303) otherwise called the 3rd Conspiracy to Fund America. The mortality rate there will probably be proportioned to the other things but hopefully only proportional which gives us some. It's all very vague (absence of the 3rd R) but something tells me some of these can be brought together & be productive in our terminology & with our truth. OK? By way of a p.s. to all that, I would say yer letter of last Thurs. was written in sections revealing different approaches &, can I say moods? A touch of reality & humanity which touches and troubles me (not unduly) but truly because it says you're accepting your lot with grit teeth & trying to make the most mileage out of it but it ain't easy. Know there's lots of grit teeth here (I'm told I grind them in sleep at night which spells extreme grit teeth). Don't know if that helps or hinders. Courage.

8/12/10

The possibilities of continued humanization in the total institutional set up:

Let me at least begin this at first by way of response to some 13 pages I've been reading. This indicates that I'm way behind. Just not enough energy for the works of the Lord or sumping!

The need for RR&R is evident now & especially that final R: reflection. There has been almost no room for that of late even in terms of serious thoughts for the fall. That is a must for the next week/weeks. And your views will be weighed seriously in that process. But, in the meantime, let me try to clarify a bit what I meant by the Westchester scene. Even as I begin, though, I realize it's all tied in together i.e. college & community. So maybe we should begin with the latter. The new brass in the community is brand new & don't know who & what they are yet still less where they are. I have communicated almost nothing to them but they have surmised what I've been about. In the conspiracy process I approached only 2 of our people — Beatrice McMahon, whom you know, & Judy Savard who works with Msgr. Foy a good deal. The former is now director of Sp. Projects & the latter of Communications. Judy went for it in a big way; Bea thought it was a little dishonest. Yesterday talked with her at length & she would like to keep close to it as she feels it's real. We had very little time, but I did indicate to her that I would have great difficulty if & when it were necessary to teach in the fall. That's a conversation that must be resumed when I've put more thought into it. But Bea is not brass; she is staff. The stance of the brass is a little difficult to deal with. I've picked up a good bit of flack that they feel that I've led Jogues astray. She refused to go to Boca because of me & one of them put it quite cruelly to her (Jogues) that in this she was trying to live out things she had never been able to do herself. That isn't important in itself. That's a judgement someone made & you treat it as such. What I'm simply saying is that the dialogue with the brass is yet to come but prior to it, I've got to do some planning myself & present them with something concrete. Tied in with all of this is the feeling I have that almost noone in the rel. community is into or even interested in the issues that the movement is. Bea denied this. She had approached several who were in relation to todays event. I realized that I've invested little time with them in that regard & that some time could be productive. On the college level, I've already said that I felt there was no follow through from the students because noone followed through with them. I was reminded of your words at the outbreak of the strike: they

P.S. Can't say how I enjoyed your card the other day. Have been thinking, several times, I'd write & tell you how much I appreciated it - but you know how it is. Am always behind-hand with everything yet accomplish a little now & then. Am optimistic! And especially so since I've nearly finished reading Jane Eyre. Am enthusiastic over it. Have always been fond of good, simple, all the while forceful stories. Will further digest the experience and annul it more thoroughly, until then, it does suffice that people and it, even if it costs you a blessing. For merely enter this state of consciousness, there, receive by publicity and all of nothing for the moment - the big objective should be continuity.

Will get out for more trips and exhibit the Canadian pigeon mostly. Am top-heavy just now, vacuum - and pulling on the strength of that outside Hour! Echo everything you've said - it's mutually true. The Lord thank you, as does mankind, as does America (really). So do I.

Give the newlyweds our love - they deserve nothing but best from all of us, and all communities respect and support. They're trail blazers in their own right, and much will come hopefully, from this new addition to family. Dim remembering those days at the Orchard.

Sam, hope to get a few views together on security and organization. Don't presume that they'll make any sense at all, or be the slightest help. But after the fact two copies, your people and a stack in the metallic pencil and order and maybe the circle ought to let the road.

Wish you can come in July - why not during the leaves of the little one my brother? We invented with fourth (Lucas) children to give commensurate details.

Did you remember me telling you of this girl from the province that I'd met at Kennedy? We spoke of books on the coast, and Corpo Vero, and some illustrations for the cutting edge. Very interesting conversation! When you see how fictive Metaphysics and reality have become Vegans. Better have begun sorts and access to living centers. Essentially nothing has changed - it has only become more so.

Hear you practically killed yourself during the recess, and that you were about 50% penny ante. Should you resume it - sincerely. But why not get away for a couple days skiing and some fresh air & decent chow?

Give all brethren + sisters my love - tell them to be wise as serpents. The Man is getting better done traps. Have no doubt He loves us. Am nice to my enemies, and mean to my friends - an inherent conflict.

Phil B

Dearest Pillenough girl, give you know what I mean. Big bright eyed with waving arms badly, and caught me with red head and fallen at random. Can't do nothing except to regret it out, excuse. He might rather eat in turn, and good listener friends. Sincerement just me pleasure of it was an appearance. harsh and abrupt. But hey I can't no other kind.

Sometimes, like charity returning. Happily cat and mice game with all the waving stay, but mice can find place, sometime even apart from this mice who might be in the Cat's pay.

Will try this time again, but with more recommend Lili face it, prudence. Or rather, communication have to go through a smile - you'll get an application of that I'm sure. Various letters to officials here or elsewhere - would be fruitless. Don gathering a little ammo: it can accumulate with time - and we can perhaps blow the institute peacefully at some future date. But might now they have all the muscle waiting for a show of strength with Wm.

Shoo you can't lean away, Jane! The newspapers have gotten to me - and they made the Lil Abner out of the Capital. But seriously, been praying hard for your people - they allow me to offer the Eucharist thrice weekly now - and thinking of you in all desirable ways. Tipsy an emotional scene, one is pretty much what one community has been through the years and out here that is of this child. Under Shine as tiresome and illegitimate pride - they're what's come from my people.

announced New Haven had been done the night before. Boston based – some new (Beverly one) & some old. It took a maximum of 2 weeks, $200., & nobody knew it was happening until it was done. Good, clean, efficient job. All were delighted. Seems they were cute things you said before they read the papers.

NY remains a problem. Seems to me the procedure will have to be a number of small efforts in order to build up a community here. At present it doesn't exist. The SJ's, with the possible exception of Murph who at least, will do what you ask him to, would drive you to drink. We'll continue trying to work with them but I don't think we can depend on them. Rightly they should go up to Rochester but we've agreed on Cumming & Ned.

Otherwise our friends from Delaware agreed to & have faced their situations there. Barry was in here on Tues. night en route down; Frank already there. No news of outcome.

Jogues & I went up to Westchester Friday afternoon for a session with some of the women for peace on the signature business. We were both amazed at their seriousness & sense of dedication. There may be some hope from this sort of thing.

Sorry this isn't as clear as I'd like it to be. So many things are dove-tailing that it's hard to keep them all in focus & it's been too long since I've written to get the details straight. Will get back to a schedule & try to keep you better informed than what this can do. Could fill a whole page with names of folks who have walked back into the picture in relation to one

P.S. Re: financial prospects: the Hallers, Frank Bailey, Liz Sullivan, Community Church, even Bill Bord SJ responded on the scene & was impressed by what's happening. Will have to trust you to steer between the lines when you see them. Like & to know that all is not also business. Like & to know that all is not peace & sacrifice for it cannot possibly be less than these latter for us – not if we're serious about it. And you're very really present to all of us, with all that that implies. There's quiet irony, then, but not in the bad way – I hope. In this love

So the battle lines are drawn. Ct. Right on. And we're waging it from this end not truly knowing - only sensing (a valid form of knowing) - how ~~the~~ dear is the price on that end. Had an awful dream about you last night! The hopes you outlined are being worked on + I guess you know what they are so won't belabor this with that stuff.

It's Sun. night + Jove has just left. Wanted to get this with her but couldn't make it.

Rather than chronology of the week shall just indicate main points + lessons learned. Thus the surfacing thing + ~~this~~ thing some strong bonds are being established with a wide circle of people - movement + otherwise. E.g. a meeting now on the surfacing. Paul Mayer is hard at ~~that~~ as is D Dowd. He is taken it on as a major project. Wed. night at 10:00 p.m. we phoned + got in Egbal, Paul + Jay Schulman + worked til 4:30 a.m. (Joe, Neil, Jogues + moi) - your thing. Fri. night a meeting of 2 from ea area with Eg + Paul on your reflections. Good session. Only thing wanting was sufficient preparation from ea area for it. In general the thing was digested + agreed upon. Departures would be (1) need to get into new forms of action. Like S.S. things as boot camps for something else. Groups might be ½ + ½ new + old people to facilitate operations + get new ones incorporated into a total scene more effectively. One thought (suggestion) was to elect a particular corp. + have ea. area hit it simultaneously. Not immediate consideration but a promising one. (2) Concept of financing in de-centralized fashion i.e. areas. Increase decentralization. (3) Concept of roving groups needs more reflection. People didn't fully understand it + found lots of difficulties with it. +

There was total agreement on socializing thing. Walsh came in

considerable fire from other quarters. What I'm saying is this - we can afford to wait. If wait we must at this point. They are narrow little people, with a lot of overly controlled violence - sometimes it's imprudent to shove them too far too fast. (New par.) If you're in touch with the blood line, let him know that I'm eternally grateful for all the happy smiles, reporting, etc. Why do I use the term "blood-line" specifically, when you're the blood line in a very unsisterly way? Gotta stop that! (New par.) Don't get me wrong - I cling to nostalgia in specific areas, need it to keep my hope alive. Moreover, the particulars are so classic that I couldn't preclude them if I tried - and there's been absolutely no attempt to try. As for broadening the inner circle, it would have to be later, when we judge it politic and necessary. And I agree with you fully - much against my weakness, - that the essential lines of the concordat remain. We'll have to trade strengths on that one - for the rest of my life it will be a grievous temptation to leave this sorry mess and walk the feminine path. With you. But that ain't no answer. (New par.) Our change emerges in a truly astounding fashion - the values and concerns that occupy Klaus are beginning to consume him. He's thinking "movement." Mark my words - he will be one of our best people. (New par.) See you this week - maybe. If not, when the Lord provides. Are you doin' any exercises? And do you ever get enough sleep. Beware! There's gonna be an accounting. Understand this ain't a response worthy of the subject - no letter could be, so I won't attempt this insipid one. Christ love you.

confident that he'll move within six months. But so far, Buchman has no plan to handle them, and perhaps that side of it should be dropped from his lap. He's a great guy and friend, but no wonder he's ambivalent when it comes to political plays. (Oh yeah! Also wrote Judicial Douglas) (New par.) At a loss over the Smith case. Of the S. J's can't be counted on to do anything there, I'd turn the rhubarb over to Jerry Swisher, who can be in touch with George on it. (New par.) The place liberals are crumpin-enough to make a mainliner of a person. But if you've got Lowell (still a ?) and Eq. your score is high. They want scenes where conditions are posh, where floodlights are on and publicity secure, and where there's no danger. All of them have been through surgery - going through that groin amputation like the clinics, or getting a knee-fuse for a backbone when they were kids. Helps flexibility - dobbing and weaving with issues. (New par.) Have written Tatro again, also Paul Mayer, but no response. But we'll wait and see. (New par.) So Green has "drones" around him - I guess you've had some savory experience with them (String fellow shouldn't table about coming here - it's a simple matter of getting authorized and then coming.) But getting back to the Green thing - that's an essentially different scene, you know. He's trying to radicalize a wide range of liberals. Whereas, you're working with hard core radicals. Most of the time, they don't mix. I remember how we operated with him - always happy to have him on a rope, but undisturbed when he couldn't make it. His talents grab on a different level than ours, and are most effective there (New par.) Don't know if this will reach you before Friday, but if it does, so much the better. Understand that I can weather not seeing you - if it's impossible to see you, or because you choose to play it differently. If H does decide to follow me at the meeting, I might play it very cool, partly because he may have made concessions to you at that point, partly because they're under

been great - he had an exclusive interview in the Nat'l Register (Denver counterpart of N.C.R.) last Sunday. He's inclined to be emotional, losing objectivity in the process. But if I know him, he'll make Pensabat. Her too, he's got Ex. Gay in (Columbia) in with him - he's much more at home with reality here, having looked around the place doing his book on CO's. (new par.) Have perfect confidence in your handling of the Hendricks affair. Fact is, he's uptight with all the flak - Cole is on his back, so is Goodell, in a much more restrained way. Now he has to face you - and perhaps some other bogeys - on Friday. He may play the proper politician by conceding to you and reinstating you (o happy day!), or he may try to bluster it out, and fight. I expect that he will call me in when you either assume, and make any agonizing decision one way or another. But I figger we have him either way - he's never played major league ball before. Mrs. Oats and the colleague from Balt. have both left - I'm ostensibly keeping my nose clean, and pressure is on them to move me. And when they do, (within a month) the curtain will go up - for the first time. Thanks to you! (new par.) Dee delighted w/ Eq. - give him special love. (new par.) As for the legal team - they merely have to settle up with Kunstler and/or Buchman, and then come up. Buchman might have to file a brief in court, but it's a mere technicality. When that is cleared, they need merely to call here (first time), and bring certificate that they're on the team. Congressman - Tydings + Goodell answered. That's it! Here's the list - Joseph D. Tydings (Md.), Charles Mathias (Md.) Clarence Long (Congressman, Md.) Jacob Javits (N.Y.) Theodore Kennedy (Mass.) Philip Hart (Mich.) George McGovern (S. Dak.) Frank Church (Idaho) George Aiken (Vt.), J. Wm. Fulbright (Ark.), Albert Gore (Tenn.) Edmund Muskie (Me.) Fred Harris (Okla.) Mark Hatfield (Oregon) John Sherman Cooper (Ky.) Eugene McCarthy (Minn.) If someone like Rosemary could play Rounds on these guys, a plan might be evolved to get them influential with Northrop - it would have to be gently done, for reduction of sentence. Even without them, I

And the chargé tells me that Time will do something on it. Does that mean Mayo? the b-stard, he ought to do something to make amends after that abominable piece on Hiroshima (Aug 10). It was pure slop. But Reddie was helpful, huh? I didn't catch anything on the Philly circus, but presume everything went ok. (New par.). Am writing this on Mon. (Aug 10) - Sorry about moods in the three notes - will try to put a half-nelson on them in the future. You're perceptive-intuitive, I can't hide anything from you, even if I wanted to. I would say off the top of my head that it's the same conflict for both of us. And I wouldn't have it different for all our common investments - in fact, the thought horrifies me, for if there is, then present vegetable would be much less a man. The great adventure would be missing, and an incomparably precious possession lost. So I'll take my little cup of gall every day, and thank God for it. What I've already had is sufficient to enrich a dozen better lives, and it ain't ended yet. So does the Lord pay up for tiny acts of service. So be not troubled by the maunds (New par.) Re for Walsh - tell me more. He's a devious b-stard, and maybe bright enough to be dangerous. Do you suppose he suspects our chargé d'affaires, or is trying to get it him? Will discuss the matter with said person. (New par.) Willing to hear more about Buck's project with Anderson and Zinn. They'd have to understand that it couldn't come out under my name - or only after discharge on a "as told to" basis. Then too, they should understand that sustained writing is a haphazard and risky business - Big Brother always has his claws barely sheathed, the stuff has to be hid, and then spirits & art in less than ideal weather. Etc. etc. As of now, the stuff I do is more spontaneous than reflective - with a plan to let it collect outside for a quick look on release. But the best way to handle the introductory phrase is to brief John Warner on it, and then get him to come (New par.) Colby is

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Legal Procedures of ter Conviction and Imprisonment

People generally conclude that legal processes have terminated with conviction, sentencing and imprisonment. Not so. By a remarkable variety of maneuvers inmates, sometimes with formal legal help, sometimes without it, attack their convictions and sentences, often with astonishing success. (New par.) Your latest like a Pikesville whiskey sour - it will help some during to answer. Have I told you recently that you're the best around? Still a little arrogance of your own - arrogance is ok when it's real. And I know, and others know, that you're the best around. And being too bold, Mike? (New par.) From what you've told me about the Hall, it seems more and more sensible that a presence in NYC is dictated. I wish I could help more with discussion of advantages or disadvantages of teaching, but you - with Joyce - and others can fully decide that. I see your point, and am astounded by it, that you now have 300 people to pursue, a good number of which are ready for identity and life. Lord! what a richness. And the kids! Wouldn't it be possible for you to follow them up, to swipe at likely members of the community, and to run down the Westchester Crew - plus others of the 300 - without teaching? I dunno - you know the new brass, and what kind of a base they will allow you. But I would agree emphatically that your teaching is being phased out by events - it's completed now, or soon will be. It's a new kind of teaching, of course. (New par.) Personally, I feel you'll get the Kilz shot this month from some of the nuns you've reached - will reach. And Joyce will remain a pill. (New par.) I've read the Times account of the Wilmington Circus, and read further between the lines. Great show

The charges against the 2 were illegal entry, etc. The effort will be made to track down the whole group through them because the Feds aren't stupid. The wedding is a real legitimate excuse for coming together & we can build from there.

I could go on but my hand is getting tired (as you can imagine must be). That is the story. At 12:00 on Thurs. we were heading to Avalon + then Tom called. At 12:00 on Fri. we had just arrived in Chester with the 4 in jail. They were to be released today after a reduction of bail hearing. Frank gave a phoney name in order not to implicate others. This may be a huge hassle. I know.

After all of this, what to say to you. In the words on an Italian S.T. — you know what is in my heart! Courage. Love. And be free to relate to that community. All the while it only grows for you. Now a day short of 2 months. Trust, love + deep peace.

work with them but said that that board should be done. It seemed a choice between me + Tom + Lil. I had come to John Swaglish's + Sam's defense for their treatment the other night + they stepped on me. They didn't mind because it enabled them to accomplish the work + that was important. Davidson was speaking - for the first time - like he needed love from this group. He had acted all week like a well oiled machine + now couldn't even do that. I'd weary you with details. It was extraordinary. The group united. Move to cut out. We needed each one. We admitted our failing + forgave one another. When everyone was saying we should just relax for a while together Frank said that what we all meant was that we should do this thing now. Later today prepared to spend the weekend with outside surveillance + communication to move against the Board at whatever point there was only one or 2 persons there. We received the plans + were to go in by 11:00 + the rest re-collect the necessary equipment + follow suit. A remarkable consensus with the energy coming to each from the whole group.

Just en route to Chester, we saw 2 Feds at the shopping center + they were headed toward our board. Followed them. The place was surrounded by Feds + cops + we knew they'd been busted. So up to Chester to work on getting them legal help. That was yesterday. The scene then was that for security sake as well as to eliminate paranoia, when they were released we should each go home + come together again next week. So here I am.

Joe + Neil were here when I arrived home about 10:30 last night. We talked the thing over. They had found it an impossible group to deal with; Anne Walsh had been very hurt by it - as Joe said because it got away from her. It did. Hairy one Neil type. I guess from what people. It was a difficult group to be part of but I'm not unhappy about that. Tonight we're going to try to see Egbal + pick his brain. The surfacing must be planned this about now only 3 - yet must - are interested in it. The rest will probably pick out another target. I can't say.

about noon + resurrected all who were there + gave them the picture. We were leading to a decision to go up to Avalon + discuss it + invite them back to finish the job. In the midst of this a call from Tom Davidson asking who'll do the job. "We're on our way then, he said. "Who?" Everyone who came up here with me? We'll get back as soon as you can. We'll get the plans set up + big-n.

We thought a miracle had happened. So Judy + I went in to the Pavilion where they were feeding for 2 hours. Finally a blast from Harrison over the walkie talkie. "What the f— are you doing in there..." Judy was manning the thing. I got it + waited down. No idea of the consternation when we were waiting for them to enter any second. I said to Judy — let's leave. So we marched out told the owner the place + exchanged time of day with the guard.

Came out + found Mary + She. A second phone call from Tom let them know he + Lil weren't in Avalon. The group knew nothing about it. There was no community to do this thing. Mary came in to beg to head us off — but we were already in it's an hour, She communicated that back to the front. Tony, Paul, Bill Davidson + Ted Glick were formulating on the spot plans — they would rent military uniforms + come in the front door + do the confrontation, get us out + we'd take the place out. But Davidson, rather than plugging into this, came in with the only other walkie talkie + berated us. Mary, Tony + the whole crowd were mad as hell. We came back to Leonard + Judy, Tom, Lil + I with Tony + Paul had a knockdown, drag out session. Meanwhile the group is en route from Avalon + Mary + She are watching the bldg. Afterwards I returned with Bill to pick them up. Came back + word was stay till they arrive + we'll have a session. But I woke up about 3:00 a.m. + Judy was next to me talking with the waning remnant. He left + we were nowhere. So we sent the dupliers off to Chester + the rest up the 8 + began a session about 5:00 a.m. (maybe 5:30).

I can't describe the one. Tom + Lil were already reached + shaken by the previous session. Judy + I had felt that all we accomplished was to hurt them. I called curtains on further

Then someone returns with a report that the marshal (armed) as well as guard is in the bldg. We are certain the whole plan has been known the epitath being: "how could it not be when about 500 people know what is happening, where + when." This report is checked out + verified. Then the session toward decision. But each idea of dealing with it is stepped on. This, I felt, was part of Davidson's plan to form + manipulate a group + do it his way wholly + entirely. None's idea was accepted. The decision was to drop it for a time. I might long + hard not to but was defeated. So we closed on the State thing + made lists of who was needed + decided to drop the rest, send them home, have a brief session in the a.m. + explain why + put that on the agenda for a total community meeting next Fri. night before Tony + Mary's wedding. Out of that should come a new, perhaps more effective communications system without the unnecessary communications which create undue jeopardy. The dismantling of the forces + the establishment of the plan before entrance I will be added to the forces inside.

Entrance easy + the 9 hours on the platform very comfortable - well relatively -. The action c.n. was made as a matter of L.L.'s location of the 3 guys there i.e. like dirt. They tolerated it heroically because they wanted to see the thing done. A message came in over the walkie talkie (these used very effectively throughout) that Winnie was clear, maybe possible. After the exit, a meeting, in Quaker fashion, up the road a piece which literally drove people crazy out of their minds - paranoia. I went down to Wilm. then with Judy to remove the guns. By the time we returned everyone had split except Paul, Tony, Mary, Judy, Sue Dave, Quang. I thought to the house in Avalon. Judy + I had to go up + meet with Bud Davidson prepare the press statement, + get it out + return the rented car. The drive was reflection time + putting things into perspective. That board had to be done. Our community which was geared to action had lost its purpose + gone to pieces. I wanted no part of an exclusive group of 8 + preferred the reorganization of the total community indicated above than a tight gestapo group directed by Tom Davidson. The Philly Reds - a beautiful group - were anxious to see it done + I would help but our people had first option. Arrived back

trust that must exist without a lot of communication, a trust that frees each party in a relationship to be concerned about & responsive to the community immediately before him/her. This as opposed to the weakness that demands togetherness such as his appearing at the hospital where Frida lay ill with the FBI patrolling the corridors.

Afterwards a listing of what remained to be done with Jolly Roger. Then return home. An attempt to review this with Joe & a siesta. In the a.m. a trip to the State place to hang the platforms for the bed-ins. On return a group was hashing it out with Joe & we had had a visit from Seminary officials with another eviction notice. So Judy & I went up to the Seminary to explain our presence there while not expecting it. The forces called auxiliaries began arriving on buses & the place was surrounded by cars from every state in the union. Joe meanwhile had sent away Mother, Gail Prem, Black Pearl & dog. Some of us began working on a statement & at the same time I on care etc.. Monday night around the media, a meeting of the Steering. Joe has cut out can the rest of us work together. Overlooking personality differences, we want to do this Jol. OK. this and the way to operate. As soon as this is over we act out to a place known to more security (& applying some of the wisdom I might add, to a situation totally out of proportion). What appeared that would be together was that a Gestapo organized occurred will because there was so much chaos & so much to be done. But the spirit was somewhat out of keeping. The agenda had been prepared by a few & the rest of us hardly welcomed it. But it was so I was uncomfortable with it. Seems like an exclusion factor.

Afterwards the 2 sections each had sessions on plans & approaches to their own target. Tues. a.m. typed the statements, met Peggy at the plane with Anne Walsh who was just dizzy over what was going on. Called about a lawyer & cars & went to Reserve cars for rental. Tues afternoon can't remember what happened. I went to Wilmington (to rent a Van) but went with Craig who wanted to do turnings. All the while uncomfortable with not being back working on plans for the schoolhouse. Got the Van & drove home. Did some stuff with Tony on cars & on where people wanted to go afterwards. In the meantime there are police outside the house watching this mad scene & paranoia grows.

Principles of Organization:

It would seem that one learns how to organize a community by reflection on the errors one has made through that process. What is needed is the willingness to review the errors and to apply the lessons.

So the story of the scene: the errors should be apparent.
But first — forgive the silence from this end. From Sunday until last night i.e. Friday it was an on-going quickly developing scene. There was not a minute to write much less to really grasp what was happening. Then the scene changed so drastically with every minute that it was impossible at any moment to say where it was at. Even the promised calls became impossible to fulfill. Those hours Thurs. + Fri. were both crucial. Never, since we began this, have I left this much time go by without a word to you. I'm sorry but beg you to understand + know that you do:—

Sunday return to the scene. All were at a picnic. Davidson entered as soon as they returned + a cloak + dagger scene outside with Frank, then a message to take Tom Davidson and Joan de Vado and drive to a motel + rent a room under such + such a name. The exit of the rest did not go so smoothly. Everyone knew but none knew what was taking place + security lead to misunderstanding + bad feelings. Particularly for Joe Gilchrist who, out of some logic of his own, had his mother, his girl friend, a black boy friend + girl friends dog already on a very complex scene. Through the weekend there had been some bad feelings expressed about their presence there + he was angry + hurt + feeling that these people mean more to me than those in the group or this action. Sun. night it came to a head when he + were not invited to come for the session. We started out then just took off for a silent drive + went home. We sent someone after him which delayed the arrival process + forced our visitor to drive in circles for a couple of hours. Then session was good. We discussed the guard + our decisions to confront him + then was agreed. We discussed i.e. fought about the confronting + he listened + said get each one to publically burn or destroy a file + put their names down saying they did it. This was more or less received but with some reservations. The final phase was the new kind of relationships we had to begin living - along the lines that we have already agreed upon. But beautiful. The kind of

Afterwards— well there's a lot of possibilities and I know
Lawrence here to the modern drafting [illegible]

Had today that letter from Lawrence [illegible]
undoubtedly [illegible] but even [illegible]
wrote receiving last one where [illegible]
will be or you get it or what? If [illegible]
but we'll try to [illegible]. The [illegible]
Neal + Chris + "Z" [illegible]
Now the report up to [illegible]
words to it, you see we can begin [illegible] should I
tell her about this or what? Don't [illegible]
work but wait start getting [illegible] till I
get this I.D. + go up + [illegible]

Also how about Tom Lewis said "I was [illegible]
of going but Bishop refused to [illegible]
Lewis Co. Bishop [illegible] Hope so. God, only
what I said would.

Sunday Dog Paul said we must [illegible] Paul
noted the figures of the dead already [illegible]
Europe by the end of the year [illegible]
all for it — my steps will be directed

Phil was there any explanation [illegible]
about writing in wartime since I [illegible]
+ asking for one or asking him to [illegible]
war? I my instinct is [illegible]
you may know whether or not I should.

[illegible] talked about [illegible]
Keep your heart up + the mind + spirit with the action.

Love you— yeza

Plan of Procedure as it presently stands:

Friday was cut (i.e. today) since along with the usual guard (new 2 weeks ago) is a Federal Marshal, armed. We don't want to cope with that if we don't have to + that situation exists only on weekends.

The Philly kids need a Tues., Wed., or Fri but the coming Tues. is out so Wed. is D. Day. Will call Jerry Thurs. a.m. - at least try to + give him the word on success. If I can't get him, will get word to you Thurs or Fri.

What should then happen is that the majority of this group will head up to New Haven + the rest begin organizing the signature business. Perhaps the Philly kids can begin casing for the "surfacing". That means getting a reading on where + what. The what in mind is approximately 2 - 3 weeks after New Haven the group, plus as many signers as possible will do a disruption - I don't at this point know what that will mean - at any N.G. center here in Delaware, release to press the statement + signatures, present a statement to N.G. + to students + at the same time the letter (or statement) will have been mailed to Nixon, S.S., F.B.I, + whoever else we think of between now + then.

And if all this happens, we can get an A in organization because it's very complicated. As I see it, it will be necessary to have a briefing session the night before surfacing with all who are involved somewhat as Fox did with his suburbanites before the clean-up day in the ghetto.

This has been an interesting process. Some stopped dead when the guard came on the scene; others wanted to knock him out. So last weekend was very difficult. We finally resolved it Monday night + researched a new plan Tuesday + then began building it up. Fatso came in late Tues. night for a few hours + he agreed with my position that all should hide in. So that cinched it. Now the exact time table is in formation.

The composition of the group is interesting. The ivy league coming there in Joe Gilchrist - Cornell, Barry Winegard - Harvard, Shawn Donovan - Holy Cross. A great charity nun from N.Y. - Judy Polanzi, also Howard ? from Cornell. The others you know - Tom + Lil, John Swingle, Frank Lopresti, Peggy Walsh still an unknown as she has been here only one weekend. Then there's this PSTAA who's a real so + so — very difficult to get along with. You'd probably like her.

Don't know if it stems from a streak a' pistrix or decency or what but I feel strongly that this is not the way to do things + that the Warden should be given a slight humanizing letter. Couldn't do any harm + may be do some good so as soon as this week is out + the full quotient of letters are in + the lapse in any communications from you is extensive enough to make it seem more than harassing, I'll sit down to it.

Am writing this on an extraordinarily soupy bus to Phila whence to Chester + our friends. Wednesday is D. Day + we'll get word to you on outcomes. We've been warned that there may be some serious repercussions from it: grim the place + its spirit, the guards, etc. particularly the guards. This even with the new procedures worked out. That has already been accepted not that I'll be disappointed if that doesn't happen.

Did you, by any chance, see Robson's words to the Chicago 5: "This is the kind of thing that stalls resolutions. My sentence was severe to discourage others from doing it." Fortunately people don't necessarily react that way.

The Pro's parting remarks were: "don't get caught." Beautiful spirit! And I mean that through + through.

You know - but you must remember - what you mean to your people. Literary this a.m. Shane prayed for you - he became the best everyone else to it. Then there's this cabbage: Take care of my old man.

ONE FLEW OVER THE COCO'S NEST...

Reflections on that work can be quite beneficial. How not only the life of the one held is controlled but also the lives of those close to that one. This is more or less true to the extent that that relationship pervades one's life. But since so much of our efforts are geared to creating areas of freedom beyond the control that power tries to exercise over us, a good boot camp in life's work!

I do wonder though whether it's ignorance + stupidity or a perverted wisdom that inspires the powers in some of their decisions. It should be clear!

(1) that if a relationship is strong enough or the Gamaliel thing if it is of God, all their forces can't constrain it the more they can alter its expression
(2) that some form of communication remains necessary
(3) Given the above then, that when legitimate channels are closed, new + illegitimate channels will be found + used.

The wisdom would be if all this were realized beforehand + the effort at present is to flush out all those channels + squelch as much as possible. Not beyond them. I would say.

But then there is the unplanable element i.e. human freedom which makes me say that I do not fear the above happening. Unjust repression of rights: the courageous spirit recognizes it + stands out against it. Even, maybe because, he is punished others can recognize the situation + rise to it.

It is something like the total effort in microcosm. Your last - it would seem - has arrived. 3 have been returned to me with, by dates, 3 more to come. The third had written on the bottom "unauthorized!

Dunno have yet gonna use such drivel - there's little of it that's news, esp. to the older hands. And I still don't have the slightest guess about the community picking it up, or dropping it. They are swiftly and not so swiftly anti-organization.

Had a session with the Minn. Viking yesterday. An incredible howl! He's obsessed with community and the Calvert St. - 5th St. Alliance, and wonders if it has a future. He's all in favor of it having a future. I shrewd mildly and go unspecifically non committal. He can't understand other theological or political matters, nor could he handle them if he understood. So he'll intuit one, suspect more, and suffer. Yet in his own way, he loves the people in question, as I'm never more than faintly irritated with him.

Hope the wedding was joyous, warm, hopeful. And the policies fruitful. Friends now speak of reactivating in Bay., which seems to be a better solution. Just rambling along here, at least starting on a few fruitful things. Which may be an achievement, given the nature of police state politics here. Don't ever get really dull - something always happens, and that's a blessing.

What I don't hear from you, I get on the air waves, through a kind of psychic transference. So don't cancel the last communications. We've made it, and purgatory has a way of ending - to the universal betterment.

D. What seems needed is techniques connected with near transient bases - mobile strike teams. For example, an underground version of the underground Dan has.

E. To serve this, the headwaiters should maintain a fluid coordinating post, staffed at hours by reliable, informed people. In that way, those on the road can keep the information coming, and make their needs known.

II. Wise meanderings

A. Security will improve in proportion to organization.

B. Our steely gaze ought to turn east - just like the governments. We've got too many good people in cities like Balt. & Philly. A number (with a purpose) ought to pick up and get out, settle down again, start work, and see what comes of it. While maintaining close ties.

C. Infuriating thoughts - There is barely a movement, let alone a revolution. There is rather, a cut of cultural unrest, fragmentary youth uprisings, a cut of frustration, keen and misdirected rage. The government's #1 enemy is itself (it's digging its own grave faster than any force could), and #2 is the Vietnamese. In proportion to our numbers, we have cost them dearly, and in that sense, we're about all that's around. All that's real, that is. We've got to get together more, do more ego-pacifying, learn more, work harder, take more calculated risks, read the Gospel more, pray more and love people more. We've made it a little tougher for them to murder, but we ain't stopped the murder yet. That by a long shot.

D. Every urban group should have local contacts for place ID. They should have one, at this time, to deal with skill and considerable discretion. Literally, people operating overground have no need for them. But they should be available - the times will require them more and more.

VI. Future Orientations (Planning considerations)

A. The East is getting hot - the last two Civil Wars were urban and important for security forces.

B. No Unit's untouched areas - Central and Eastern Pa. is one, Conn. another, northern and western N.Y. State, Virginia, Ohio and Indiana. And as yet the Southeast still the Chinese golden lotus.

C. When and if money becomes available, cadres (recruiters, technicians, etc.) could branch out into fresh areas for sustained recruit and dig out possibilities in people and targets. Perhaps teams could settle in places like Rochester, Buffalo, Pittsburg, Syracuse, possibly Richmond. Then they could whip up support communities, recruit, isolate military and corporate targets, effect recruiting off the land, etc.

D. Somebody has suggested that periodically, Washington or others, could pick the brains of men like Eqbal, Dellinger, Sand. Since the latter appear convinced that Nixon will use tactical nuclear weapons in Indochina, he could be asked what he intends to do about that.

E. Since resources appear to be available for the subterranean project in the District, this should have priority for the winter of '70-'71.

F. Another prospect - a well subsidized team could head for the hinterlands, ie W. Va., and track the mural records in the State. Might take a couple months.

"organizational" meeting became undesirable, it
should come regularly - some substitute might be
devised by the headquarters.

IV Finances

A. Some responsible person should take the job
of speaking to get donors for a year.

B. A number of liberals may undertake the task of
raising money for them in mid.

C. Some sustained work should be done on the mailing
list. (mailing list mess).

V Security

A) The main threat to security comes from people
too ambitious to be controlled. Too many intriguers,
and Morford, too many cooks.

B. They not concentrate on several identifiable,
specific significant actions, resulting from wide
election - with people put in from such areas they can
be found. The tendency, with many new people, to do
the biggest and the best is very dangerous.

C. Every attempt ought to be made to avoid mail dupes
in fact, individual pays a small fee. Also
toll free phone a month per phone, six liberal phone.

II. Organization - Called Headquarters Committee, Central Staff, Council for the Advancement of Common Business - anything.

A. Attend various Elect's Headquarters - for a year or a year. Monthly meeting - minimum. Each Headquarters has way of carrying decisions of actuals to monthly meeting. One Headquarters can attached Finchley.

B. Executive can be formed along same a framework become established - guidance on policy, recruiting, targets, fee fees, finances, security, etc.

C. Miscarriage of business may. Should depend on the continuing of all to see that it does not become this.

III Communications

A. These will depend upon how well we relate to one. At last glance, communications were haphazard and informal.

1. People would communicate if some time were set apart.

2. But not about what ought to be in the post.

3. And seldom for the express purpose of keeping others informed.

4. Some would not communicate at all.

B. Since the travel arrangement decided upon at last

A. Anaesthetic value (sensation, movement, localization, etc.).
B. Emotional disposition (satisfied, dissatisfied, indifferent), or in words (some hindrance and appreciation).
C. Emotional response (joy, grief, fear).
D. Words (with attempt to record, if new to the patient and often mentioned, with meanings and clues).
E. Personal adjustments — on the other extreme, e.g.
F. Too much time spent in avoiding conversation (perhaps indicate that there should be a general identification between nurse and social life.)
G. Insufficient thinking about finances, about grandfather, about poverty. (But talk about some people are selfish with money.
H. Exceptional circumstances in the case.
I. Summary — if the case should demand that this country needs non-institutional help supplied. The whole reference respecting, direction, individually.

I.

These proposals are tentative, and in no sense of the word, ideal. They come from what I have written & was invited, and what I've learned of the extraordinary work done from the community and have in person and out, and from all unanimous direction for practical and immediate action. Beyond this I welcome and make observations, and invite the gift & the initiative of those entirely outside my experience, they would be an intrusion.

(The Employment Service system may contain that we could eventually thank out organization. Obviously, our people have already for years made attempts. Maybe the attempts have been ineffective & not always, but usually, they were motivated by desire to meet more frequently and effectively).

Organization must have its critic, constructive, or adjective. Apart from helping us to serve people more efficiently, we must cooperate to appreciate with the community, with people we function and responsibility, and they are dead, and because they are dead.

I Practical Problems.

friend, and keep the magnificent under repair. If the unbalanced in our heart-people is overcome, and if they're caught - there's the immense annulment - it would mean life. Christ has a practical bill considered. (New par.) Possibly each angel could simplify 2 or 3 mos. discreet work. I would imagine that he would have dozens in his care to call for - perfect acquittance at the slightest danger. The thing to do is find out in these legals for ourselves, or come to check up - if he cracks up (New par.) I don't think Eg can build his own tower on this - he'll probably need help. But a sense of boldness and modesty should be kept on hand. Furthermore, I don't think he'd be the easiest guy to work with. Mind you, the criticism came with love for the guy, with gratitude for the past months, and with a recognition of his intelligence and talent. Execution is good - a few wrinkles there - but perhaps these have already been ironed out. (New par.) Just read your two letters (15th + 16th) over. They're not dull at first day. You come through beautifully, if with restraint. And I get all the innuendos, and delight in them. You're too big for humanity, Miss, which means you'll have to grow in order to compete. I remember well the (passage) Sun. inquisition - how you read the manifesto to me - thought that was stylish, you anticipated the women's lib thing, and with complete justice. Apart from that, one event on to even more serious questions. Attending the recovery you made from a bitch of a summer in Europe, and the return in England. (New par.) On writing this on Thurs. Aug 21 - the last will be a lot of isolated stuff. The Piattony ulcer cauterized, but may become something constructive in a year or two away. Don't know what to say regarding the Penthouse thing - he might move in the Fall, but he might not. Bernard's future is supposed to be doing some specific work there - but he's an eccentric, unpredictable type. Think you'll have great difficulty handling Paxton on the writing thing, but if you do, manage to get word to me. For that matter, you can't recalcitrant it. (New par.) I wonder how the way the Old Man does with you, in contrast to the procession that Pauline Kael recommends is a good thing. I would say that you've made clean sweep of all the dross, and him you've come to. Be well - steady thing good from here and from the Front.

8/24/71

(2.)
and we'll remember it. I was justly proud of you all, and the best part of the afternoon was all my years glowing for you, and knowing that the best elements of status quo still remained (new par.) We had an industry strike here in Tacoma and Wash. There were 25 months of quandary in the thing, but no brains, and no organization. Strictly over, the strike effected this travel and I'll not go this week - next Tues. or Thurs. would be more likely. Got 2 from you via regular channels in addition to the "heavy" one. Bless you! What can I say? (new par.) I don't know precisely how to answer #2. I presume you refer to a visit back here after a sojourn with the boys. Unless the new place offers unusual potential, would be partial to that. As I see it, there's no overriding reason why we should be together longer than a couple of months. Our approaches to the movement are quite different - Dan is a superior propagandist, and does it incomparably well. But I have different views about priorities
pussonalities, as you know. Then in #2, you make reference to a "coming out." As I might have told you before, I would come out only if the movement is much more than it is now - I mean generally, not our crowd - or if it became clear that the feds would stick him with the 6 yr. bit, which would mean another 3+ mos. From this viewpoint, that would be natural, and I'd take my chances on resisting it. You know, if there's no reduction in the offing, there's a good chance that national legislation will be passed in the Fall which opts for release of 1st offenders with 1/3 of sentence served. We'll hear them one way or another. (new par.) I don't know what effect Dan's position + mine has had on our people. I would like to think it had some, which is to say, your + my race love, is well founded. Will you permit me a little compliment, Doctor? The big difference right largely with your coming in. Will you permit another observation? My affinity for you was not wholly personal - I would have been a fool to ignore what you had to offer the revolution. By spirit - you visited on your own freedom, you had incomparable generosity and you loved the Book of Jesus. I knew all this, and one vitally had to give it time. And when this odyssey is over, I will learn from you - that lucky moment six months to do the books, and get my head together in an atmosphere

3/27

(Mr) doesn't move, making the outreach the inside. But even if that were possible, how can it be guaranteed that they wouldn't indict him in some sort of a show trial? Then too, the common sense is that it is the resolution of honorable withdrawal from S.E. Asia, and I am sure some of the Democrats believe that. Have to get the truth out, i.e. Not the economy needs cuts, and it might as well be these as the others, and that we intend to stay. That might mean a Korean type peace, but then we'd have to live with the others. Then go into the discussion of more serious decisions, raising unemployment at home. This is what should be got Hfn from K. but can the Democrats do it? (New par.) Nonetheless, I like the plan and am just trying to weave elements of modesty into it. Why not coordinate it with the one against Capital at Dallas - you should talk more thoroughly with the Chargé about this, as with Little Shaw or Big Joe Norman. To disrupt them, and then grab the Brain Child. This would be escalation enough. (New par.) This comes off the top of my head. Why not grab Mr. Brain Child, treat him decently, but tell him nothing of his fate - or tell him his fate hinges on release of pol. people on occasion of air strikes in Laos. Then have battalions of movement people - Brain Child blindfolded - engage him on policy. After he has been taught (the consideration of his safety will make him more and more flexible in his answers) get it filmed and recorded. One thing should be implanted in that fine brain - that respectable murderers like himself are no longer inviolable. (This should be done just before release). And that if he doesn't work to Hanoi's policy, the likes of him will be killed by less scrupulous people. Finally, that political prisoners are the best guarantee of his own safety, and that he better get them out of jail. (New par.) Taken along these lines, you have both a material and personal confrontation with the war makers. The trick to pull off is to hit them very, very hard without giving them violence to react to, or justify themselves with. (New par.) He can be kept blindfolded, and participants can wear stocking masks + disguises. It can be done and brilliantly. (New par.) I would air Eg on it immediately, but tie it in with the S.C. 8/24/70

(3)
when I can get several kinds of education - not just philosophical or ideological. But the Communal thing, & the Eucharist, and the kind of silence that we've had before, and which has taught me so much. (New par.) It occurs to me also that you might reflect (in #2) to confab with Dan about suddenly the inner circle. To be frank, I've thought a lot about this since a move to Danbury came on the horizon. And decided against it, that is telling him alone. It strikes me that we should announce this new development sacrament together, or not at all. In any event, you can clear up my confusion about #2 when you come to Danbury. I fear that visiting is much more human there, more frequent etc. (New par.) Now we come to #3. Just between you and me, I have never been overmuch impressed W/ Eg. He's dear friend, very helpful in the last months, lovely guy, good ideologue, but still to produce. I think the role of men from Princeton is the one first one with him. (I have this terrible suspicion regarding academics) With few exceptions, the best students will let others go to the gallows without a serious murmur. They did it in Germany, and they're doing it here. And I'm from that strain. You see Eg., the brilliant New-Stirling fellow at least believes in some thing. But here are more reservations - I'd be delighted to be wrong. (New par.) About the plan - the first time opens the door to murder - the Tupamaros are finding that out in Uruguay - I hope you're following them (Last issues of the Guardian). When I refer to murder it is not to prohibit it absolutely (violence against non-violence bag) it is merely because that one has set the precedent, and that later on, when general resistance to the sort of things to offend, men will be killed. I love the point, the project as you outlined it is brilliant, but grandiose. I've found, with bitter experience, that even people get fed up to the neck, they're either stupid or egotistical (another word I got about Emerson) which is to say that grabbing the gentleman will take a force of 20 or 30 of your best people - guarding him, getting Communications out, perhaps moving him 2 or 3 times within the week. Now in addition, to the Danbury a provocation of this sort would have

Draft #3 8-22-70

THE USE AND EFFECTIVENESS OF GROUP THERAPY IN THE FEDERAL PENAL SYSTEM.

An emphasis on relationship seems to have generated a growing tendency on the part of individual alcoholics to have inmate-to-inmate personal contact with one another and with staff members. Group meets to provide a setting for improved acceptance of one another, as well as an opportunity to discuss sobriety questions.

The new information about Hunter brought back fond memories. A week after the confrontation, he called me in (with the Captain there) and the letter which he had received and practically memorized. He didn't have to go over the personal aspects of it with obvious relish, as though to say - "Ha! I've got a thing goin'? Just like Martin King, huh?" He wanted a confession and I blasted at him and told him he had no evidence (he hadn't caught the charge with it). Then I picked his brains for a while, and he got furious. I told him if he had suspicions about you and me, that he should drop your privileges after I wrote you taking full blame for the mess. He said that wouldn't be necessary. The next day he accepted the charge telling him I had confessed everything. After that failed, he suspended your privileges and put me under "heat" which I allowed to develop until I had enough on him to pull the chain. And he took a very hard whipping, as the interview displayed. As the cons would say, he is a con - I caught him in a bad beef three flagrant lies. In a sense, you exposed him also and he could do nothing but hate you for it. Because I'm convinced he got your letter. When anyone plays to his ego and gives him the illusion that he has control, then he will play plenty of lies over, maintaining a saccharine tolerance. But call him bluff and he acts like a cocky brat. The worden saw this, and assumed more & more control of the discussion, until what he said made less and less sense. Sarcasm broke and came in that he had given you a tough time to go, but didn't know to what extent. So a real education - the keys at the top, Nixon, Mitchell et al, will make him look like a Knight of St. Gregory in comparison. We'll see it yet. 8/24

trial to be released to TV etc. is phenomenal. Then his aspect of the war will be at least impeeded by his absence & the involvement of all close to him in an investigate of his whereabouts. Think about it & maybe when I see you in Danbury I can get your thoughts as well as fill you in on where the plan lies. Otherwise I'm meeting with Paul Cowan this afternoon, with the Merton - Buber House folk this evening & later tonight with Lee Lockwood, a guy doing an NET documentary on Merv & you & wants some help. Be on in about 3 weeks. Tomorrow a meeting at the college in T.T. to work out possibilities there followed by a session with Jim Forest & Judy to work out more immediate projects & possibilities. Paul Mayer is en route to Cuba for that international resistance thing. He'll be gone for about a month so the Picatinny Arsenal project can't really get underway until he comes back. That's, as I believe I told you, a long term thing. The aspirations have to do with a series of sessions with some of the engineers who work there who have shown interest in a more intense Xtian life. Over a long period of time - or not too long - to bring them to the point of some minor sabotage against the place themselves or at least aiding others to do something there. Paul has some contacts to start with. These guys have been coming to Fr. Martin at the Abbey in Newton for Pentacostal meetings for the last 3 years! Incredible! As I read it, you should see Warren by Friday. We've had almost daily contact with him. And Jogues is now out to lunch with a pal who'll take up the Northrop & congressmen thing. That's basically all the news that is not fit to write &, God, B.D.Q.! One thing I will say is that it's far easier to write this than the other way. The letters thru usual channels have been eeked out & are undoubtedly drab & dry as dust. What may seem here to be complete control of a situation, you must remember is part facade. The old man, both in Pauline & my own terms, lives on sometimes with a concreteness that is almost torture. What that says is both good & bad, a mixture I'm sure you're familiar with. Right on!

8/21/10

in utter confidence + should not be committed to paper + I would want you not even to say a word of it to Dan until we have a fuller grasp of it. I say it to you for 2 reasons. The first obviously is to get your thinking on it, the second to give you some confidence that people are thinking seriously of escallating resistance. Eq called us up to Conn. last night along with Bill Davidon who, in case people have not told you, has become one of our better people. Parenthetically someone with a knowledge of the scene, a keen sense for tactic + detail + little fear of risk for himself. He's the most central fig. in the Phila. scene + went into the Boards in Georgetown with these ideas. Eq outlined a plan for an action which would say - escallated seriousness - + we discussed pros + cons for several hours. It needs much more thought + careful selection of personnel. To kidnap - in our terminology, make a citizens arrest of - someone like Henry Kissenger. Him because of his influence as policy maker yet sans cabinet status, he would therefore not be as much protected as one of the bigger wigs; he is a bachelor which would mean if he were so guarded, he would be anxious to have unguarded moments where he could carry on his private affairs - literally + figuratively. To issue a set of demands e.g. cessation of use of B52s over N. Vietnam, Laos, Cambodia + release of political prisoners. Hold him for about a week during which time big wigs of the liberal ilk would be brought to him - also kidnapped if necessary (which for the most part it would be) - + hold a trial or grand jury affair out of which an indictment would be brought. There is no pretense of these demands being met + he would be released after this time with a word that we're non-violent as opposed to you who would let a man be killed - one of your own - so that you can go on killing. The liberals would also be released as would a film of the whole proceedings in which, hopefully, he would be far more honest than he is on his own territory. The impact of such a thing would be phenomenal. Reasons for wanting to do it: it will ultimately be done by someone here + end in fiasco or violence + killing. Eq wants to do it + do it well + I believe he has the know how to direct such an escapade. The major problem, as I see it, is the severe consequences for something that is largely "drama" with little lasting effect. Second problem I envision is position of something like this in a movement context i.e. what next. Some thought would have to be given to that. It seems at least possible to have 2 fairly distinct groups on the one hand the felons who have a scant chance but a chance of remaining anonymous + the big wigs who will provide the "public" aspect of the action who are preserved by their own position as "captives" also. The concept of a film of the

before anyone else does it

The Lot of Political Prisoners in the Federal Penal System

Before engaging a question like federal Penal System policy toward Political Prisoners, one must provide a context for its operations, both natural + local. Concurrsi like a few behaviorist penologists, one deals with penal reality as an isolated phenomenon, subject in no sense to deeper causes. In this limited view, the inmate becomes one victimized by a backward penal system. Time considerations being what they are guess this will be the last effort along these lines + this may even come too late - who knows. There are basically 3 things I want to let you know. First, by way of reaction to - evaluation of the top level thing. It is my guess that H. got the 3rd letter claiming rights for reinstatement. This for 2 reasons. His attitude toward me was a complete about face. He was out for blood (mine) in at least the 1st 3 hours. And that wasn't expected since he claimed he didn't get it. The letter contained a criticism of the NY Times piece of the guy who was given a look at you + then went on to ask for reinstatement. Evidences of this new attitude were plentiful + none of us could have missed it. Nothing would stop him from reading a section of the contraband + going beyond the issue into a personal note was more than accidental. He told me I was the most selfish person he'd ever met etc. I Refused to be angry or respond on that level. He was clearly distraught by the whole thing + is a violent person - a violence he failed utterly to control. I would not exactly say it was a productive thing although I feel some understanding was created. You would know best the outcome + effectiveness, if any. But then we did not know what to expect or what we wished to achieve. The best part was seeing you + the old fighting spirit + to know first hand that beyond physical confinement, they had no control over you. Funny - was always able to tolerate these Group sessions that demanded such discipline because there would usually be a space of time later on when that could be let down. The horror of Fri. was that there was no space afterwards + I only fully grasped that later that night. In all our efforts to face reality, in some instances it still eludes us. The second is the proposal that I/a jokingly I opened to you in the corridor. If you would like it - now or some time later - we can do it. See Bruce + talk to him about it if you wish + think it over seriously + we'll work it out En route to Danbury might be too soon at this point to do anything. Either while there or a later passage is subject to discussion. We can also arrange it "non violently". I say this not to exert pressure one way or another. The future is an unknown - except in certain status quo areas - + I don't have a preference for the exact lines that future will take. I'm open to all sorts of possibilities + the reality will undoubtedly be "none of these." One problem I have with that (i.e. either you or D. coming out) is that it says the movement can't go on with one of you / or both. And I'm arrogant enough to think / believe that your being where you are is enough to make the rest of us get off our tail to prove that it can. Which leads me to #3 + this is

8/31

Boyd —

The enclosed is dynamite & I mean it. The proposal (# 3) is something noone & I mean noone should know about. I want his nibs to for the reasons indicated & you must of necessity. So it's something I'm entrusting to you. I want him to get this letter if at all possible, if not at least the contents of it.

How are you? Loved the time spent in Leesburg. You have a beautiful community there which needs only someone within it to urge it to action. I kind of think, at this stage, that that is essential. They've seen enough of outsiders & know the facts. One of them must now take the leap or an action must be done there by an outside group & let them work out the follow-up — that as a 1st stage in resistance.

Listen, I'll call Friday at 4:00 at the 524-0038 number. If you don't answer, I'll presume you haven't gotten this yet & try for Sat. at 12:15. We didn't set up a time & I don't want to call the house so this seemed best.

Lots of love to you & all

Liz

8/21/70

56. Please explain in detail your statement in your aforementioned letter [Attach. H] that "One thought (suggestion) was to elect a particular corp. & have ea. area hit it simultaneously"?

57. Did you understand Philip Berrigan's statment in his letter to you which is attached hereto as Attachment No. I that "maybe the circus ought to hit the road" to refer to a suggestion that future draft board break-ins should be expanded outside the eastern seaboard area?

58. If your answer to Interrogatory No. 57 is no, what did that statement mean to you?

59. Did you understand Philip Berrigan's statement in his aforementioned letter to you [Attach. C] that "a well subsidized team could head for the hinterlands, i.e. in W. Va., and trash the rural boards in the State" to be a suggestion that persons join together for the purpose of breaking-in and/or destroying Federal government files in Selective Service System offices in West Virginia?

60. If your answer to Interrogatory No. 59 is no, what did that statement mean to you?

61. Did your statements in your letter to Philip Berrigan which is attached hereto as Attachment No. J "that to build up a N.Y. area means some very modest actions to get some people to work with, and Westchester could be good targets" refer to a suggestion that Westchester, New York, should be considered as a good target for break-ins in Selective Service System offices in or around that city and/or the destruction of Federal government files in those office(s)?

62. If your answer to Interrogatory No. 61 is no, please explain in detail what you meant by your statement.

Respectfully submitted,

RICHARD L. THORNBURGH
Assistant Attorney General

GEORGE W. CALHOUN
Attorney, Department of Justice

LARRY L. GREGG
Attorney, Department of Justice

Selective Service System offices at 3701 North Broad Street, 3207 Kensington Avenue, and/or 1421 N. Cherry Street, Philadelphia, Pennsylvania, February 6-7, 1970?

48. If your answer to Interrogatory No. 47 is no, what did that reference mean to you?

49. Did you participate in or were you involved in the break-ins identified in Interrogatory No. 47, either in planning the break-in(s), in direct participation in the break-in(s), or in the subsequent concealment of the identities of those who did participate in the break-in(s)?

50. If your answer to Interrogatory No. 49 is yes, please relate in detail the nature and extent of your participation or involvement.

51. Please identify and explain in detail the activities of the East Coast Conspiracy to Save Lives, the Second East Coast Conspiracy to Save Lives, the Iron Mountain Group of the East Coast Conspiracy to Save Lives, and the 2nd Conspiracy to Find America.

52. Please explain in detail your involvement in any of the actions or groups identified in Interrogatory No. 51 and any activities involving break-in(s) and/or destruction of Federal government files sponsored or coordinated by those groups.

53. Did you participate in or were you involved in any other break-ins and/or destruction of Federal government files, either in planning the break-in(s) and/or destruction of files, in direct participation in the break-in(s) and/or destruction, or the subsequent concealment of the identities of those who did participate?

54. If your answer to Interrogatory No. 53 is yes, please relate in detail the nature and extent of your participation or involvement.

55. Did your statement in your letter to Philip Berrigan which is attached hereto as Attachment No. 4 that "Walsh came in & announced New Haven had been done the night before. Boston based - some new (Beverly one) & some old. It took a maximum of 2 weeks, $200., & no/one/else knew it was happening before it was done. Good, clean, efficient job. All were delighted" refer to your knowledge of the perpetrators of the break-in at the Selective Service System office at New Haven, Connecticut, on or about July 9-10, 1970?

39. Did your statement in your aforementioned letter [Attach. F] that "I was added to the forces inside" and "Entrance easy & the 9 hours on the platform very comfortable -- well relatively so. The action O.K." refer to your entry into the Selective Service System office either at 38 South Street, Dover, Delaware, or 109 West Pine Street, Georgetown, Delaware, or 3203 Kirkwood Highway, Wilmington, Delaware, and if so, which one?

40. If your answer to Interrogatory No. 39 is yes, please relate in detail what actions you took before leaving the office and, specifically, whether you handled, removed, and/or destroyed any Federal government files.

41. Please explain in detail your statement in your aforementioned letter [Attach. F] that "Tony, Paul, Bill Davidon & Ted Glick were formulating on the spot plans -- they would rent military uniforms & come in the front door & do the confrontation, get us out".

42. Please explain in detail your statement in your aforementioned letter [Attach. F] that "we'd take the place out"?

43. Did you participate in or were you involved in the entries into the Selective Service Systems offices in Georgetown, Dover, and/or Wilmington, Delaware, and/or the destruction of files therein on June 17-18, 1970, either in planning the entry and/or destruction of files, in direct participation in the entry and/or destruction of files, or the subsequent concealment of the identities of those who did enter and/or destroy files?

44. If your answer to Interrogatory No. 43 is yes, please relate in detail the nature and extent of your participation or involvement.

45. Did the references to "Wilmington circus" in Philip Berrigan's letter to you which is attached hereto as Attachment No. G refer to the entries into and/or destruction of files at the Selective Service office at Wilmington, Dover, and/or Georgetown, Delaware?

46. If your answer to Interrogatory No. 45 is no, what does that reference mean to you?

47. Did Philip Berrigan's reference in his aforementioned letter [Attach. G] to a "Philly circus" refer to the break-ins at the

attached hereto as Attachment No. E, did your statements, respectively, that "Wednesday is D. Day" and "The Philly kids need a Tues., Wed., or Fri. but the coming Tues. is out so Wed. is D. Day" refer to the date set for the entry into the Selective Service Systems in Delaware, on June 17-18, 1970?

33. Did your statement in your aforementioned letter [Attach. E] that "he agreed with my position that all should hide in" refer to a plan to hide in Selective Service System office(s) in Delaware until they closed on the night of June 17-18, 1970?

34. Did your statement in your letter to Philip Berrigan which is attached hereto as Attachment No. F that "In the a.m. a trip to the State place to hang the platforms for the hide-in" refer to the hanging of platforms in Selective Service System office(s) in Delaware in order to permit people to hide inside the offices until after they closed on or about June 17-18, 1970?

35. Did your statement in the aforementioned letter [Attach. F] that you "went to reserve cars for rental" and "went to Wilmington (to rent a Van)", refer to your renting cars that you and those persons acting with you might use in furtherance of a plan to enter Selective Service System offices in Delaware and destroy Federal government files on June 17-18, 1970?

36. Did your statement in your aforementioned letter [Attach. F] that Grady "wanted to do timings" refer to a check of the amount of time it would require for the stages of the actions against Selective Service System office(s) in Wilmington, Georgetown, Dover, and/or other cities in Delaware?

37. If your answer to Interrogatory No. 36 is no, please explain in detail your quoted statement.

38. Please explain in detail your statement in your aforementioned letter [Attach. F] that "the decision was to drop it for a time. I fought long & hard not to but was defeated. So we closed in on the State thing & made lists of who was needed & decided to drop the rest, send them home, etc."?

24. On or about October 10, 1970, did you meet in the Baltimore area with Joseph Wenderoth, Jogues Egan, Neil McLaughlin, and/or any other person(s), at which time the kidnap plan and the plan to blow-up, destroy, or otherwise disrupt in any way discussed?

25. If your answer to Interrogatory No. 24 is yes, please relate in detail the content of that discussion.

26. Did you know or have reason to believe that the plan to blow-up, destroy, or otherwise disrupt utilities systems in Washington, D. C., and/or the kidnap plan had been scheduled to take place on or about George Washington's Birthday, 1971?

27. Please relate in detail the nature and extent of your knowledge concerning the plan to blow-up, destroy, or otherwise disrupt utilities systems in Washington, D. C.

28. Why did you not contact the District of Columbia Police Department, the Federal Bureau of Investigation, or other appropriate law enforcement agencies with regard to that plan?

29. Please relate in detail the factual basis for your statement in your aforementioned letter to Philip Berrigan [Attach. A] that plaintiff Davidon "has become one of our better people. Parenthetically someone with a knowledge of the scene, a keen sense for tactic & detail & little fear of risk for himself. He's the most central figure in the Phila. scene."

30. Specifically, did this refer to plaintiff Davidon's participation in or involvement with break-ins at Selective Service System offices and/or his harbouring and assisting persons who were AWOL from the armed forces?

31. Did your statement in your aforementioned letter [Attach. A] that plaintiff Davidon "went into the Boards in Georgetown with those kids" refer to plaintiff Davidon's direct participation in the entry into the Selective Service System office at 109 Pine Street, Georgetown, Delaware, on June 17-18, 1970?

32. In your letter to Philip Berrigan which is attached hereto as Attachment No. D and your letter to Philip Berrigan which is

15. Did you understand Philip Berrigan's suggestion in his aforementioned letter [Attach. B] to coordinate the kidnap plan with the "one against capitol utilities" and a "D.C. Fiasco" to refer to a plan to blow-up, destroy, or otherwise disrupt heating and/or electrical systems in Washington, D. C.?

16. Did you understand Philip Berrigan's reference to "the subterranean project in the District" for the "Winter of '70-71" in his letter to you which is attached hereto as Attachment No. C to refer to a plan to blow-up, destroy, or otherwise disrupt such utilities systems in Washington, D. C.?

17. Please relate in detail the basis for and extent of your knowledge of a plan to blow-up, destroy, or otherwise disrupt utilities systems in Washington, D. C.?

18. Did you know or believe that Philip Berrigan and/or Joseph Wenderoth had entered utilities tunnels in Washington, D. C.?

19. Did you know or believe that Joseph Wenderoth or any other person was trying to get blueprints or plans of the underground utilities tunnels in Washington, D. C.?

20. Did you know or believe that Joseph Wenderoth or some other person had collected or was attempting to collect dynamite or other explosives to be used in the blowing-up, destruction, or otherwise disruption of utilities systems in Washington, D. C.?

21. If your answer to Interrogatory Nos. 18, 19 and/or 20 is yes, please relate in detail the basis for and extent of your knowledge and/or belief.

22. In August 1970, did you meet with Joseph Wenderoth and/or Neil McLaughlin in the area of Sea Girth, New Jersey, and discuss the kidnap plan and the coordination of that plan with the plan to blow-up, destroy, or otherwise disrupt utilities systems in Washington, D. C.?

23. If your answer to Interrogatory No. 22 is yes, please relate in detail the content of that discussion.

7. Did you consider the kidnap plan discussed at the August 17, 1970, Connecticut meeting a serious plan or was it 'just talk'?

8. If you did not consider the kidnap plan seriously, what was your intent in writing Boyd Douglas in a cover note to your aforementioned letter [Attach. A] that: "The enclosed is dynamite & I mean it. The proposal (#3) is something noone & I mean noone should know about"?

9. Following your aforementioned letter to Philip Berrigan [Attach. A], did you receive the letter from him which is attached hereto as Attachment No. B?

10. Did you communicate with plaintiff Davidon, Eqbal Ahmad, Jogues Egan, Neil McLaughlin, Joseph Wenderoth, or any other person, contents of the letter or the modifications to the kidnap plan suggested by Philip Berrigan in that letter [Attach. B]?

11. If your answer to Interrogatory No. 10 is yes, please identify the persons with whom you did discuss the plan and/or show Philip Berrigan's letter and relate in detail the content of any discussions with regard to the modifications suggested by Philip Berrigan in that letter [Attach. B].

12. Please relate in detail all references to the plan, or actions taken in furtherance of the plan, by yourself or by others, you believed, after you received the aforementioned letter of Philip Berrigan [Attach. B].

13. Specifically, with regard to Philip Berrigan's suggestion in his aforementioned letter [Attach. B] to the kidnap plan that you "sic Eq on it immediately," and that "I don't think E can build his own team on this -- he'll probably need help," did you contact Eqbal Ahmad after receiving Philip Berrigan's letter and discuss the kidnap plan in any way?

14. If your answer to Interrogatory No. 13 is yes, please relate in detail the content of that discussion.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SISTER ELIZABETH MC ALISTER, et al., Plaintiffs,	
v.	Civil Action No. 72-1977
RICHARD G. KLEINDIENST, et al., Defendants.	

DEFENDANTS' FIRST INTERROGATORIES TO PLAINTIFF ELIZABETH MC ALISTER

To: Elizabeth McAlister
c/o Jack Levine, Esquire
1427 Walnut Street, Suite 200
Philadelphia, Pennsylvania 19102

Defendants hereby propound the following interrogatories to plaintiff Elizabeth McAlister, to be answered under oath, pursuant to Rule 33, F.R.Civ.P. Answers are due to be filed thirty days from the date of service hereof.

1. Did you meet with Egbal Ahmad and William Davidon in Connecticut on or about August 17, 1970, as you stated in your letter which is attached hereto as Attachment No. A?

2. Did you discuss for several hours at that meeting a plan to kidnap Dr. Henry Kissinger, or someone like him, as stated in your aforementioned letter [Attach. A]?

3. If your answer to Interrogatory No. 2 is yes, please relate in detail the content of that discussion and plan.

4. Did you discuss at that meeting a plan to also kidnap "big wigs of the liberal ilk" in order that you, and/or others in attendence at the meeting, could 'try' Dr. Kissinger or conduct a grand jury affair, as you stated in your aforementioned letter [Attach. A]?

5. If your answer to Interrogatory No. 4 is yes, please relate in detail the content of that discussion and plan.

6. What was the purpose of the plan reported in your aforementioned letter [Attach. A] to kidnap Dr. Kissinger, or someone like him?

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
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DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 06-09-2015

JUNE

Assistant Attorney General
Criminal Division

REC-29 62-115389-20

October 5, 1973

Director, FBI

1 - Mr. Miller
1 - Mr. Mintz
1 - Mr. Williamson

SISTER ELIZABETH McALISTER, et al. v.
RICHARD G. KLEINDIENST, et al.
(E.D. PA.) CIVIL ACTION NO. 72-1977

Pursuant to the request of [redacted] of your division, enclosed is a memorandum dated October 1, 1973, captioned "SISTER ELIZABETH MC ALISTER, ET AL, PLAINTIFFS V. RICHARD G. KLEINDIENST, INDIVIDUALLY AND AS ATTORNEY GENERAL OF THE UNITED STATES, ET AL DEFENDANTS," which contains the logs prepared during the electronic intercept of plaintiff Davidon. b6 b7C

Enclosure

NOTE: Philadelphia airtel dated 10/1/73, same caption, enclosed an LHM consisting of the logs in the Davidon intercept. A copy of these logs was requested by [redacted], Criminal Division, who is representing the Government in this civil action advised SA James L. Williamson, Office of Legal Counsel, that he needed copies of the logs in the Davidon intercept to use in preparing the Government's response to interrogatories filed by plaintiffs herein. b6 b7C

JLW:deh
(6)

MAILED 4
OCT 5 - 1973
FBI

~~SECRET MATERIAL ATTACHED~~

Assoc. Dir. ____
Asst. Dir.:
Admin. ____
Comp. Syst. ____
Ext. Affairs ____
Files & Com. ____
Gen. Inv. ____
Ident. ____
Inspection ____
Intell. ____
Laboratory ____
Legal Coun. ____
Plan. & Eval. ____
Spec. Inv. ____
Training ____
Telephone Rm. ____
Director Sec'y ____

OCT 3 1973

MAIL ROOM [] TELETYPE UNIT []

(Rev. 5-22-64)

FBI

Date: 10/1/73

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL _____ (Priority)

TO: DIRECTOR, FBI
(ATTENTION: OFFICE OF LEGAL COUNSEL)

FROM: SAC, PHILADELPHIA (62-5217) (P)

SUBJECT: SISTER ELIZABETH MC ALISTER, ET AL
V. RICHARD G. KLEINDIENST, ET AL
(EDPA), CIVIL ACTION NO. 72-1977

62-115389-17

62-115389-19 Re Philadelphia nitel, 8/10/73, and Bureau airtel to Philadelphia, 9/20/73.

Enclosed for the Office of Legal Counsel are two copies of an LHM pertaining to handwritten logs of information furnished by [redacted].

b7D

The LHM is classified "~~Secret~~" inasmuch as previous communications relating to [redacted] have been so classified, and because of the technique involved. It is noted that, per Philadelphia airtel to Bureau captioned "EASTCON", 4/2/71, the Bureau was furnished with two copies of complete transcripts of the information furnished by [redacted].

On 9/26/73, AUSA [redacted], MDPA, Harrisburg, Pa., advised that on 9/11/73 he opposed a motion filed by Attorney J. [redacted] on behalf of plaintiffs in this case to dissolve the protective order entered 5/1/72 in U.S. V. AHMAD. Judge R. DIXON HERMAN has not rendered a decision on the motion and is expected to do so within the next two weeks. b6 b7C

ENCLOSURE

62-115389-20

3-Bureau (Enclosures 2) (RM) REC-29
2-Philadelphia
(1 - 62-5217)
(1 - 100-51190 Sub B)
RCH:nrk
(5)

EX-105 22 OCT 5 1973

LEGAL COUNSEL

DECLASSIFIED BY 1259
ON 8-25-78
gfbjrod

Approved: _____ Sent _____ M Per _____

Special Agent in Charge

U.S. Government Printing Office: 1972 — 455-574

AUSA [redacted], EDPA, Philadelphia, Pa., advised there are no new developments. b6 b7C

Philadelphia will keep the Bureau advised.

UNITED STATES ~~SECRET~~ DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to File No.

Philadelphia, Pennsylvania

October 1, 1973

SISTER ELIZABETH MC ALISTER,
ET AL,

PLAINTIFFS

V.

RICHARD G. KLEINDIENST, INDIVIDUALLY AND AS ATTORNEY GENERAL OF THE UNITED STATES, ET AL

DEFENDANTS

Reference is made to the memorandum of Robert C. Mardian, Assistant Attorney General, Internal Security Division, U.S. Department of Justice, to the Director, Federal Bureau of Investigation, dated February 11, 1971, captioned, "Electronic Surveillance Information Request: EQBAL AHMAD, PHILIP BERRIGAN, ELIZABETH MC ALISTER, NEIL MC LAUGHLIN, ANTHONY SCOBLICK, JOSEPH WENDEROTH, DANIEL BERRIGAN, THOMAS DAVIDSON, MARJORIE SHUMAN, BEVERLY BELL, PAUL MAYER, WILLIAM DAVIDON, JOGUES EGAN."

DECLASSIFIED BY 1259
ON 8-25-78
AFP/Pract

~~SECRET~~

CLASSIFIED BY NORRIS S. HARZENSTEIN
EXEMPT FROM GDS, CATEGORY NO. 2
DATE OF DECLASSIFICATION INDEFINITE

APPROPRIATE AGENCIES AND FIELD OFFICES ADVISED DURING SLIP-UP. DATE 10/30/78

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

62-115389-20

ENCLOSURE

SISTER ELIZABETH MC ALISTER,
ET AL PLAINTIFFS

V.

RICHARD G. KLEINDIENST, INDIVIDUALLY
AND AS ATTORNEY GENERAL OF THE
UNITED STATES, ET AL
DEFENDANTS

Referenced memorandum requested information concerning conversations of the above-named individuals which have been monitored by electronic surveillance devices.

(1) Conversations in which William Davidon was a participant were overheard on the following dates:

November 24 through December 11, 1970;
December 13 through 20, 1970;
January 3 and 4, 1971.

(2) The electronic surveillance device consisted of an interception of communications on telephone number 215 - MI 9-6194, listed to William Cooper Davison, located at his residence, 7 College Avenue, Haverford, Pa.

(3) This installation was originally authorized by the Attorney General of the United States on November 6, 1970, and was instituted at 8:00 a.m., November 24, 1970. On December 7, 1970, the Attorney General authorized the continuance of this installation and it was continued in effect until 12:00 midnight, January 6, 1971.

The following are logs maintained by Special Agents of the FBI during the period the above-discussed electronic surveillance was in effect: